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South Asians and the Creation of International Legal Order, c. 1850-c. 1920:

Global Political Thought and Imperial Legal Politics

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Dedication

I dedicate this work with love to Amy Ramsey, who has lived with it for many years, and to our families.

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South Asians and the Creation of International Legal Order, c. 1850-c. 1920:

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by

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This dissertation argues that South Asians used international legal discourse both for ideological disputation and to mount political challenges to the domination and subjugation that accompanied British imperial rule between roughly 1850 and 1920. South Asians instigated political and legal disputes in India and Britain, throughout the empire, and overseas, and gained promises and partial concessions to Indian opinions and demands that limited British options in imperial and international relations. In so doing, they compelled the British state to alter the ideology, the policies, and the practices of the state, in India and in its relations with other states both within and outside the empire. Britain's power, ultimately, meant that South Asians' argumentation and actions shaped the contours of global order after the First World War.

The traditional international-legal framework of treaties, treatises, and states provides little insight into South Asians' contributions to global order and law between

roughly 1850 and 1920. This situation exists, partly, because of the perceived and purported normalcy of the nation-state as the fundamental category of international life. Traditional histories of international law argue that international law originated in Europe and regulated European states' relations until colonized states were granted international legal recognition at the time of decolonization. Recent revisionist scholarship argues that the existence and experience of empire and colonial rule shaped the development of international law and global order throughout the nineteenth and twentieth centuries.

This dissertation approaches empire in a way that emphasizes the global exchange of ideas and the active connections between colonizers and the colonized. Elite, English-speaking South Asians acted as cultural translators or intermediaries. They engaged in debates as public intellectuals, and they carved out spaces for themselves in the social and political communities that created public opinion. Consequently, South Asians' ideas about relations among different peoples and between states and South Asians' mobilization of these ideas throughout the empire and overseas to make political claims about the obligations of the imperial state and the rights of imperial subjects shaped ideas about global order and the structure of international legal relations.

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Introduction

The British Indian army in Bombay prepared and launched a military expedition against Emperor Tewodros II of the Ethiopian empire, or Abyssinia, in 1867 and 1868.¹ Tewodros, known both as King Theodore and Theodorus in the British historical record, had written to Queen Victoria in 1862 to request help from a fellow sovereign, in the interest of their shared Christian civilization, to fight the alleged expansion of the Muslim Ottoman empire into Abyssinian territory. Victoria never responded, for numerous possible reasons. One observer noted that Anglo-Ottoman relations were friendly at the time.² One government official mentioned persistent diplomatic missteps.³ One later commentator cited the contingencies of institutional life, wherein Theodore's "foolish letter" had been "tossed into a pigeon-hole by some heedless Foreign Office subordinate."⁴ The reason, whether geopolitical or Victorian burlesque, mattered little. Theodore reacted to the diplomatic snub in 1864 by imprisoning two British missionaries,

¹ "Abyssinia Expeditionary Force 1867-1868," India Office Records (IOR), L/MIL/5/540, The British Library, Asia, Pacific & Africa Collection, London; see, Edward Hertslet, *Recollections of the Old Foreign Office* (London, 1901), 230-244, Chapter XII: "The Abyssinian Question," for a brief recitation of the reasons for the conflict from a Foreign Office official; see, Henry Montague Hozier, *The British Expedition to Abyssinia* (London, 1869), for an account from the Assistant Military Secretary to Robert Napier, who led the expedition as the Commander-in-Chief of the Bombay Army.

² See, for Britain being on "very good terms with the Turks," Charles Villiers to Olga Novikoff, October 11, 1867, In W. T. Stead (ed.), *The M.P. for Russia: Reminiscences & Correspondence of Madame Olga Novikoff*, Volume I (London, 1909), 110-111; Charles Villiers was a Russophile and the younger brother of George Villiers, Lord Clarendon, who served three times as Foreign Secretary, including during the Crimean War and both immediately before and after the Abyssinian expedition.

³ Andrew Lang, *Life, Letters, and Diaries of Sir Stafford Northcote, First Earl of Iddesleigh*, new ed. (Edinburgh, 1891), 190-197; Northcote served in Benjamin Disraeli's Cabinet as the Secretary of State for India during the expedition.

⁴ John Russell Young, "The Chinese Question Again," *The North American Review*, 154 (1892), 596-602, at 599; see, also, Nini Rodgers, "The Abyssinian Expedition of 1867-1868: Disraeli's Imperialism or James Murray's War?," *The Historical Journal*, 1984 (27), 129-149.

the British consul who attempted to secure their release, and finally, the entire consular staff. Subsequent, fruitless diplomatic overtures culminated in August 1867 with Queen Victoria's announcement of a decision for war to rescue the hostages and to punish King Theodore.

Some critics condemned conquest in Abyssinia as a first step towards the occupation of Egypt on behalf of British financiers, but very few observers questioned the international legal basis for the expedition.⁵ Stafford Northcote (1818-1887), the Secretary of State for India at the time, explained his support for the expedition by proclaiming that "[e]nvoys of the Sovereign of this country should always be under the protection of this country in the country to which they are accredited" and added that Britain would be "untrue not only to ourselves but to the civilized world if we failed to uphold [this principle]."⁶ Public opinion held that Britain had "exhausted every pacific means of obtaining the release of [the envoy] and the other prisoners."⁷ International legal scholars concurred and retrospectively sanctioned the legality of the expedition.⁸

⁵ E.g., Frederic Harrison, *Autobiographic Memoirs: Volume I (1831-1870)* (London, 1911), 344-346; see, also, Gregory Claeys, *Imperial Sceptics: British Critics of Empire, 1850-1920* (Cambridge, 2010).

⁶ House of Commons Debates (HC Deb.), November 28, 1867, volume 190, columns 359-407, column 371.

⁷ "The Abyssinian War," *The London Review of Politics, Society, Literature, Art, and Science*, 15 (November 30, 1867), 586-587, at 586.

⁸ Robert Phillimore, *Commentaries upon International Law*, vol. II, third ed. (London, 1882), 7; James Lorimer, *The Institutes of the Law of Nations: A Treatise of the Jural Relations of Separate Political Communities*, vol. I (Edinburgh, 1883), 250.

The House of Commons, on November 28, 1867, approved the government's proposal for war. Support was overwhelming, but not unanimous.⁹

Dissenters opposed the government's plan to execute the expedition using Indian troops and revenues. The proposed use of Indian resources aroused adamant, if limited, antipathy, both in Parliament and among public intellectuals, whose attitudes, ideas, and judgments constituted nineteenth-century public opinion.¹⁰ Opponents argued that India possessed no material or foreign-affairs interest in the dispute and that the diversion of Indian revenues for a British-imperial war actively harmed South Asians.¹¹ The dispute revolved around questions about the status of India in the empire; about imperial legal and constitutional order and how the empire was, and was being, systematized and structured; and about the relationship "between imperial and municipal structures of authority," especially as these related to questions about foreign or international relations and law.¹²

The invocation of Indian interests, separate from those of Britain, surprised supporters of the expedition. Most regarded India as an entirely subordinate part of the British empire in which the Queen and Parliament sat atop a vertically integrated empire-

⁹ HC Deb., November 28, 1867, vol. 190, col. 407; 198 members voted "aye," and 23 voted "no."

¹⁰ See, on public intellectuals and public opinion, Stefan Collini, *Public Moralists, Political Thought and Intellectual Life in Britain 1850-1930* (Oxford, 1991).

¹¹ E.g., the comments, during Parliamentary debate, of Henry Fawcett and of Robert Cecil, Viscount Cranborne and, later, Lord Salisbury, HC Deb., November 28, 1867, vol. 190, col. 380-383 and col. 404-407, respectively.

¹² Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850* (Cambridge MA, 2016), 5.

state as the only legitimate, outward-facing representatives. Henry Rawlinson (1810-1895), claiming credibility based on his experience as an East India Company army officer and diplomat, expressed this theory of political order most starkly, saying, “[o]ur system of Government in India [is] essentially for the maintenance of our power, and when we [speak] of Indian interests we [mean] our own interest as the ruling power of India.”¹³ He justified the elimination of India’s international legal personality and of South Asians’ claims as rights-bearing imperial subjects by averring that Britain was “one of the great nations of the world appointed to watch over the interests of civilization.”¹⁴

Dadabhai Naoroji (1825-1917), in a paper presented to the East India Association in London the day after the vote in the Commons, spoke against the proposed war.¹⁵ Naoroji had migrated from Bombay to London in 1855 as a business partner in the first Indian-owned trading firm in Britain, and he was a respected public intellectual in both countries.¹⁶ He had co-founded the Association to provide objective information and policy advocacy on Indian interests to the government and the public. He had not known, when preparing his paper, that Parliament would approve the government’s proposal before his presentation and had hoped to obtain a resolution opposing the use of Indian

¹³ HC Deb., November 28, 1867, vol. 190, col. 384.

¹⁴ HC Deb., November 28, 1867, vol. 190, col. 390.

¹⁵ Dadabhai Naoroji, “Expenses of the Abyssinian War,” *Journal of the East India Association*, vol. II (London, 1868), 46-63.

¹⁶ See, R. P. Masani, *Dadabhai Naoroji: The Grand Old Man of India* (London, 1939).

resources for submission to Parliament and the Queen in the name of the Association, the South Asian and British members of which were prominent public figures.

Naoroji is best known as a moderate nationalist and a political economist, but on this particular Friday afternoon, he analyzed the history of inter-polity legal relations between various South Asian rulers and the East India Company.¹⁷ Mutual-defense provisions in the formal treaties that had regulated these relations required the party requesting military assistance to pay the full costs of any expedition. Naoroji opined that the EIC's arbitrary and repeated repudiation of its treaty obligations had contributed to the violent revolt against Company rule in India in 1857. He noted that Queen Victoria, after the reimposition of British control in India in 1858, had promised to respect these treaties and that Parliament, by Article 55 of the Government of India Act of 1858, had precluded the use of Indian revenues for British military actions except under unexpected and exigent circumstances, a condition obviously unmet in the long-running dispute with King Theodore.

Naoroji called upon the Secretary of State for India, "when English and Indian relations [were] to be adjusted, to act as if he were an independent Power, representing Indian interests, and [to] negotiate with the Foreign Secretary on terms fair and equitable

¹⁷ Lauren Benton and Adam Clulow, "Empires and Protection: Making Interpolity Law in the Early Modern World," *Journal of Global History*, 12 (2017), 74-92. Benton and Clulow use inter-polity law as a broader, pluralistic category of law that encompasses not only relations between states but also the inter-civilizational relations that characterized the era of imperial expansion and the variety of non-state actors, e.g., trading companies, empires, subsidiary states, or port cities, that engaged in treaty-making or contractual relations.

to both parties.”¹⁸ His ideas about politico-legal and constitutional order, about authority and legitimacy, and about India’s place in the imperial and global systems differed sharply from those of most contemporary political theorists, statesmen, and colonial administrators. Naoroji’s international legal discourse created the political-theoretical foundation for an empire-as-commonwealth almost two decades before scholars identify an expanding interest in commonwealth ideas among theorists of either a racialized, Anglo-Saxon global order or imperial federation, and more than 30 years before the term entered the popular lexicon during the South African, or Boer, war.¹⁹ Naoroji’s commonwealth was a singular politico-legal and constitutional entity comprising discrete states with equal claims to particular local, imperial, and global interests and was only partly hierarchical with respect to concentric and competing local, imperial, and global spaces. It was also a capacious inter-*national* entity that could accommodate varied ethnic and religious communities and histories.

Most British political theorists, statesmen, and colonial administrators in the nineteenth and twentieth centuries agreed with Henry Rawlinson’s opinion about Britain’s Indian empire. If we accept this dominant strain of British political thought at face value, and if we believe that British politicians and administrators completely subjugated and successfully erased particular peoples from global life, then South Asians

¹⁸ Naoroji, “Expenses of the Abyssinian War,” 50.

¹⁹ Richard Koebner and Helmut Dan Schmidt, *Imperialism: The Story and Significance of a Political Word, 1840-1960* (Cambridge, 1965), 182-187, 233; James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939* (Oxford, 2009); Duncan Bell, *The Idea of Greater Britain: Empire and the Future of World Order, 1860-1900* (Princeton, 2007); S. R. Mehrotra, *India and the Commonwealth, 1885-1929* (New York, 1965).

like Naoroji and others should have been unable to affect the ideas and practices related to global order or international relations and law. South Asians, though, did not simply go gentle into that good night of colonial erasure.

They used international legal discourse for the work of ideological disputation and to mount political challenges to the domination and subjugation that accompanied imperial rule. International legal discourse facilitated Britain's attempted erasure of South Asians from international legal life after the revolt in 1857. Yet clear evidence of South Asians' subsequent ideological and political work appeared in 1919, when colonial India's anomalous position as both a colonial dependency and a founding member-state of the League of Nations and the International Labor Organization (ILO) attracted worldwide attention. The disjuncture in status between India's international and imperial conditions, described in the 1920s as "quasi-independence," continued to shape the ideological and the institutional practices associated with empire and international law and relations up to the creation of the United Nations in 1945 and South Asian independence in 1947.²⁰

This dissertation traces South Asians' use of international legal disputation to argue that they reconfigured the ideologies and practices related to global order, as expressed in international political thought, law, and institutions between roughly 1850

²⁰ See the Memorandum on the "International Status of India," In the *Simon Commission Report on India (Indian Statutory Commission): Part II, Volume V, Memoranda Submitted by The Government of India and The India Office to The Indian Statutory Commission* (London, 1930), 1631-1650, at 1632; see, also, Arthur Berriedale Keith, *The Sovereignty of the British Dominions* (London, 1929), 327-330; William Edward Hall, *A Treatise on International Law*, eighth ed. (Oxford, 1924), 35; Lassa Oppenheim, *International Law: A Treatise*, Volume I (New York, 1928), 195.

and 1920. South Asian legal experts, scholars, and activists persistently and repeatedly provoked politico-legal disputes in India and Britain, throughout the empire, and overseas, often extracting partial concessions to Indian opinions and demands, but, more importantly, limiting British options in imperial and international relations, including Britain's freedom to control the political agenda. These disputes challenged and altered the ideology, the policies, and the practices of the British imperial state, in India and in its relations with other states both within and outside the empire. The worldwide reach of British power allowed South Asians' argumentation and actions to shape the contours of global order after the First World War by forcing intellectuals, statesmen, and imperial agents to abandon the nineteenth-century version of international law that created order through subjugation.

This story locates the origins of modern international law in British imperial efforts to order and re-order relations among peoples through imperial thought, administration, and law. Attention to South Asians illuminates how international law developed not within a system of relations among equal states but because of both asymmetric relations among peoples and the justifications for imperial subjugation. Focusing on South Asians' international political and legal thought and advocacy during the British imperial era undermines narratives that imagine national states, empires, and international space as politico-legal matryoshka dolls or non-overlapping concentric circles. This approach provides guidance for examining the political, economic, and legal

inequalities that still shape global affairs and the patterns of hierarchical relations that endure to the present day.

The Scholarly Erasure of Colonial South Asians from International History

One could be forgiven for believing that South Asians contributed nothing to the development of international political thought, law, or institutions before the end of British rule in 1947. A solitary monograph has examined the history of South Asians' contributions to international law before independence.²¹ It was published in 1967 and focused only on the early modern period. Charles Henry Alexandrowicz, in *An Introduction to the History of the Law of Nations in the East Indies*, argued that diplomatic and treaty-making practices commonly regulated relations between Asian rulers and both European sovereigns and trading companies, as agents of states, between the sixteenth and eighteenth centuries. He posited that interactions proceeded based on an assumption of reciprocity between the parties and occurred on roughly equal terms because natural law theories recognized *de facto* sovereigns and states without regard to putative moral and cultural differences among peoples.

He contended that this inclusivity ended in the late-eighteenth or the early nineteenth century, when the “ideological cataclysm” of an emergent jurisprudence of positivism disparaged moral reasoning on behalf of humanity or mankind and redefined

²¹ C. H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies (16th, 17th, and 18th Centuries)* (Oxford, 1967); see, also, David Armitage and Jennifer Pitts, “‘This Modern Grotius’: An Introduction to the Life and Thought of C. H. Alexandrowicz,” In Armitage and Pitts (eds.), *The Law of Nations in Global History* (Oxford, 2017), 1-34.

the sources and subjects of international law. The new theory of law relocated international legal authority by arguing that legitimate sovereigns alone commanded the actions of states. Sovereigns' choices defined customary state practice, which created international law, and states, not peoples, were the only subjects of that law. This allowed sovereigns to act on civilizational or cultural bigotry, which was then reproduced in international jurisprudence as theorists and statesmen reimagined the "family of nations" entitled to international legal rights as coextensive with Christian Europe.²²

According to Alexandrowicz, the resulting regionalized version of an international law that aspired to universal applicability allowed the use of force for the expansion of imperial-institutional rule and the "improvement" of subject peoples, whose civilizational inferiority necessitated European tutelage. State power suppressed and subsumed the autonomy of indigenous peoples, foreclosing their ability to participate in international politics. Positivism and the practices it generated, argued Alexandrowicz, led to a situation in which "the contribution of Asian countries to the further development of international law [in the nineteenth and twentieth centuries] was insignificant."²³ South Asian states, consequently, re-emerged as international actors only at the constitutional

²² C. H. Alexandrowicz, "A Persian-Dutch Treaty in the Seventeenth Century," *The Indian Year Book of International Affairs*, 7 (1958), 206.

²³ Alexandrowicz, *An Introduction to the History of the Law of Nations*, 2.

moment of independence from British rule on August 15, 1947, when “India [and Pakistan] joined the Family of Sovereign Nations.”²⁴

Alexandrowicz characterized his monograph as “a venture into *terra incognita*” that, he hoped, would open a new field of study to acknowledge and explain the contributions of Asian states to pre-modern international law and politics.²⁵ He revised the traditional argument that international law originated solely in Europe in the seventeenth century, but the history of the nineteenth century, for Alexandrowicz, remained one of imperial expansion and the erasure of colonized peoples.²⁶ Responding to this assessment of the nineteenth century, legal historian David Kennedy argued that international lawyers and legal historians, rather than questioning this view, have used this image of the nineteenth century to emphasize the extent of international legal progress during the twentieth century.²⁷ Other legal scholars affiliated with the Third World Approaches to International Law (TWAIL) collective adopted a critical approach to assumptions about the international legal subjugation of non-Europeans, but they eschewed archival sources and applied postcolonial theories to the traditional, nineteenth-

²⁴ C. H. Alexander, “International Law in India,” *The International and Comparative Law Quarterly*, 1 (1952), 289-300, at 289. Alexander and Alexandrowicz are the same author. He published as Alexandrowicz, as Alexandrowicz-Alexander, and as Alexander.

²⁵ Alexandrowicz, *An Introduction to the History of the Law of Nations*, v.

²⁶ See, e.g., Arthur Nussbaum, *A Concise History of the Law of Nations*, Revised ed. (New York, 1954); Wilhelm Grewe, *The Epochs of International Law*, trans. Michael Byers (Berlin, 2000 [1984]).

²⁷ David Kennedy, “International Law and the Nineteenth Century: History of an Illusion,” *Quinnipiac Law Review*, 17 (1997), 99-138.

century, international law canon.²⁸ They decried but accepted the historical erasure of non-Europeans. Historians of South Asia, simultaneously, neglected global issues to focus on the local and national dimensions of modern South Asian history.²⁹

Like these commentators, Alexandrowicz was a man of his time, with professional goals and personal, ideological commitments. His historiographic objective, to demonstrate Asian states' contributions to the development of international law on roughly equal footing with European states, served an explicit, normative function, the elimination of "European egocentricity" in postcolonial international law and politics.³⁰ The story of how Alexandrowicz came to write his monograph, and the specific, global politico-legal context for its production, illuminates the historiographical consequences of his normative goal.³¹

Alexandrowicz (1902-1975) was born a Polish subject of the multi-ethnic Austro-Hungarian empire. His Roman Catholicism sheltered him from the anti-Semitic

²⁸ See, e.g., K. M. Panikkar, *The Afro-Asian States and Their Problems* (London, 1959); Rupert Emerson, *From Empire to Nation: The Rise of Self-Assertion of Asian and African Peoples* (Cambridge, 1960); R. P. Anand, *New States and International Law* (Delhi, 1972); Taslim O. Elias, *Africa and the Development of International Law* (Leiden, 1972).

²⁹ John Gallagher, Gordon Johnson, and Anil Seal (eds.), *Locality, Province and Nation: Essays on Indian Politics, 1870-1940* (Cambridge, 1973); Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton, 1993).

³⁰ Alexandrowicz, *An Introduction to the History of the Law of Nations*, 1.

³¹ See the biographical note in Charles H. Alexandrowicz, "Treaty and Diplomatic Relations between European and South Asian Powers in the Seventeenth and Eighteenth Centuries," *Recueil Des Cours*, 100 (1960/II), 203-321, at 205; T. S. Rama Rao, "Introduction," *The Indian Year Book of International Affairs*, 11 (1962), vii-ix; W. A. Steiner, "Charles Henry Alexandrowicz 1902-1975," *British Yearbook of International Law*, 47 (1976), 269-271; T. S. Rama Rao, "Professor C. H. Alexandrowicz: A Tribute," *The Indian Year Book of International Affairs*, 18, pt. II (1980), viii-xii.

discrimination and violence that led some of his contemporaries to emigrate.³² In Cracow, he witnessed the empire's collapse and the re-emergence of an independent Poland in 1918, where he remained to study history and canon law. He practiced law between 1930 and 1939 and then participated in the initial resistance to the German invasion of Poland before fleeing to London to work for the Polish government-in-exile during the Second World War.³³ In 1948, unwilling to return to a Poland under Russian control, he became a British citizen and began both practicing law and lecturing at the University of London. He accepted the position of Research Professor of International and Constitutional Law at the University of Madras in south India in 1951, a position he held until 1961. His work, his relationships, and his extensive research in the Indian archives, formed the basis for *An Introduction to the History of the Law of Nations in the East Indies*.

He arrived in India only six years after the end of the war and just four years after the end of British rule.³⁴ Astonishing violence, ethnic and religious cleansing, and population transfers had accompanied both events, the consequences of which were still unfolding.³⁵ He founded and edited the *Indian Year Book of International Affairs* and

³² Martti Koskenniemi, "Hersch Lauterpacht," In Jack Beatson and Reinhard Zimmermann (eds.), *Jurists Uprooted: German-Speaking Emigre Lawyers in Twentieth-Century Britain* (Oxford, 2004), 601-662.

³³ Britain hosted many academic professionals who fled Germany, Austria, and surrounding countries at the time of the Second World War. On lawyers, see Beatson and Zimmermann (eds.), *Jurists Uprooted*.

³⁴ Gerhard Weinberg, *A World at Arms: A Global History of World War II*, 2nd ed. (Cambridge, 2005); Yasmin Khan, *The Great Partition: The Making of India and Pakistan* (New Haven, 2007).

³⁵ Keith Lowe, *Savage Continent: Europe in the Aftermath of World War II* (New York, 2012); Tony Judt, *Postwar: A History of Europe Since 1945* (New York, 2005), especially Part I, "Post-War: 1945-1953," 13-240, and the first two chapters of Part II, which discuss the re-emergence of stability in Europe and the beginnings of decolonization; Vazira Zamindar, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (New York, 2007); Joya Chatterji, *The Spoils of Partition: Bengal and India, 1947-1967* (Cambridge, 2007).

organized the Indian Committee of Comparative Law, working alongside prominent Indian jurists, including B. R. Ambedkar, who had drafted the Indian constitution, and Radhabinod Pal, who was both a judge on the International Military Tribunal for the Far East from 1946 to 1948 and a member of the United Nations' (UN) International Law Commission from 1952 to 1966.³⁶

Indian leaders, at this time, welcomed assistance from foreign institutions and individuals.³⁷ Friedrich Berber, a German legal scholar, advised the Indian government on a water dispute with Pakistan from 1951 until 1954.³⁸ American scholars, universities, and foundations worked on Indian legal education.³⁹ The Indian Constituent Assembly studied, borrowed, and modified constitutional practices from around the world.

Ambedkar reasoned, “the only new things, if there can be any, in a constitution framed so late in the day are the variations made to remove the faults (of its antecedents) and to accommodate it to the needs of the country.”⁴⁰

³⁶ “The Indian Committee of Comparative Law,” *The International and Comparative Law Quarterly*, 3 (1954), 101; see, also, Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford, 1966); and, Yuma Totani, *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (Cambridge MA, 2008).

³⁷ See, for a discussion of Indian leaders' inter-war internationalism and the origins of their openness to post-war foreign assistance, Kris Manjapra, “Knowledgeable Internationalism and the Swadeshi Movement, 1903-1921,” *Economic and Political Weekly*, 47 (October, 20, 2012), 53-62.

³⁸ Katharina Rietzler, “Counter-Imperial Orientalism: Friedrich Berber and the Politics of International Law in Germany and India, 1920s-1960s,” *Journal of Global History*, 11 (2016), 113-134.

³⁹ Jayanth K. Krishnan, “Professor Kingsfield Goes to Delhi: American Academics, the Ford Foundation, and the Development of Legal Education in India,” *American Journal of Legal History*, 46 (2004), 447-499; see, also, C. H. Alexander-Alexandrowicz, “American Influence on Constitutional Interpretation in India,” *The American Journal of Comparative Law*, 5 (1956), 98-105; Mitra Sharafi, “South Asian Legal History,” *Annual Review of Law and Social Science*, 11 (2015), 309-336.

⁴⁰ Quote in Austin, *The Indian Constitution*, 321, fn. 27.

The new constitution was, however, only one aspect of the ongoing reconstruction of a postcolonial Indian state. Legal independence from British rule, accompanied by the partition of directly ruled British India into the new states of India and Pakistan, also freed over 500 indirectly ruled native, or princely, states. These states were advised to choose between joining India or Pakistan. Political pressure and the threat of military intervention compelled most to do so before August 1947, although some demanded the legal right to choose independent statehood.⁴¹ Moreover, small French and Portuguese colonies still existed within India.⁴² The process of “national integration” imbricated domestic, constitutional, and international law.

John Darwin, one of the pre-eminent historians of the British empire, has noted that the 1950s and, perhaps especially, the 1960s were marked by a “complicated interplay between domestic, colonial and international politics.”⁴³ Increasing numbers of newly independent states condemned Eurocentrism in international law and politics.⁴⁴ Ongoing interventions by the United States and the Soviet Union in the affairs of the

⁴¹ Ian Copland, *The Princes of India in the Endgame of Empire, 1917–1947* (Cambridge, 1997); V. P. Menon, *The Story of the Integration of the Indian States* (Bombay, 1961).

⁴² Akhila Yechury, “Imagining India, Decolonizing L’Inde Francaise, c. 1947-1954,” *The Historical Journal*, 58 (2015), 1141-1165; Pamila Gupta, “Gandhi and the Goa Question,” *Public Culture*, 23 (2011), 320-330.

⁴³ John Darwin, “Diplomacy and Decolonization,” *The Journal of Imperial and Commonwealth History*, 28 (2000), 5-24, at 5; Odd Arne Westad, *The Global Cold War: Third World Interventions and the Making of Our Times* (Cambridge, 2007); Anita Inder Singh, *The Limits of British Influence: South Asia and the Anglo-American Relationship, 1947-56* (New York, 1993); Robert J. McMahon, *The Cold War on the Periphery: The United States, India, and Pakistan* (New York, 1994); Matthew Connelly, *A Diplomatic Revolution: Algeria’s Fight for Independence and the Origins of the Post-Cold War Era* (Oxford, 2002).

⁴⁴ Upendra Baxi, “Some Remarks on Eurocentrism and the Law of Nations,” in R. P. Anand (ed.), *Asian States and the Development of International Law* (Delhi, 1972).

“Third World” revealed ways in which international law and politics continued to be based on inequality and former imperial oppression.⁴⁵ At the same time, the doctrine of equality among nation-states turned discussions of international affairs away from the after-effects of imperialism.⁴⁶ Most international lawyers and legal scholars ignored legal history to focus on practical matters and specialized studies in an environment marked by the “emergence of a depoliticized legal pragmatism.”⁴⁷

Alexandrowicz, in this environment, served as honorary legal adviser to the Government of India. He worked closely with Jawaharlal Nehru, independent India’s first prime minister, who, according to one historian, Sunil Khilnani, “understood independence as an opportunity to establish India as a presence on the world stage”⁴⁸

Another historian, Manu Bhagavan, has argued that Indian leaders saw the United Nations as the best venue to shape the global ideological and institutional future and that individual human rights in “one world” lay at the core of Nehru’s vision of global order.⁴⁹ India’s actions revealed a more ambivalent international character.

⁴⁵ Wm. Roger Louis and Ronald Robinson, “The Imperialism of Decolonization,” *The Journal of Imperial and Commonwealth History*, 22 (1994), 462-511; Vijay Prashad, *The Darker Nations: A People’s History of the Third World* (New York, 2007).

⁴⁶ David Long and Brian Schmidt (eds.), *Imperialism and Internationalism in the Discipline of International Relations* (Albany, 2005); Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton, 2009).

⁴⁷ Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870-1960* (Cambridge, 2001), 4; on imperial residue in international law and in the structure of the United Nations, see Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge, 2005).

⁴⁸ Sunil Khilnani, *The Idea of India* (New York, 1997), 178.

⁴⁹ Manu Bhagavan, *The Peacemakers: India and the Quest for One World* (New Delhi, 2012).

International law could liberate or subjugate, and Nehru, other Indian leaders, and Indian international lawyers were adept at cycling instrumentally between these possibilities to enforce the domestic authority and the international power of the Indian state.⁵⁰ India initially agreed to the intercession of the UN and the International Court of Justice to solve disputes about the princely states of Jammu and Kashmir, Junagadh, and Hyderabad, and about the Portuguese colonies, but when the disputes lingered or the decisions of the international bodies seemed likely to oppose Indian wishes, Nehru used the Indian military to annex these territories.⁵¹ This behavior affected India's international image. India's claim to global, non-aligned leadership increasingly was questioned by more recently decolonized states, many of which perceived India's international behavior as overbearing and even imperialistic.⁵²

The historical currents of the time shaped historiography. New states, conceived as national states, required new and improved national histories, cleansed of colonialism.⁵³ The imperial past became an aberrant time, during which the sovereign

⁵⁰ B. S. Chimni, "International Law Scholarship in Post-colonial India: Coping with Dualism," *Leiden Journal of International Law*, 23 (2010), 23-51; see, also, Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor MI, 2003); C. A. Bayly, "The Ends of Liberalism and the Political Thought of Nehru's India," *Modern Intellectual History*, 12 (2015), 605-626.

⁵¹ Michael David Witmer, "The 1947-1948 India-Hyderabad Conflict: Realpolitik and the Formation of the Modern Indian State," (Unpublished Ph.D. Dissertation, Temple University, 1996); Rakesh Ankit, "The Accession of Junagadh, 1947-48: Colonial Sovereignty, State Violence and Post-Independence India," *The Indian Economic and Social History Review*, 53 (2016), 371-404; Rakesh Ankit, "To Issue 'Stand Down' or Not...: Britain and Kashmir, 1947-49," *Britain and the World*, 7 (2014), 238-260; Leo Lawrence, *Nehru Seizes Goa* (New York, 1963)

⁵² Vijaya Lakshmi Pandit, Secret Memo, December 30, 1963, Papers Relating to the United Nations, file 7, Vijaya Lakshmi Pandit Papers (II Installment), Nehru Memorial Museum and Library (NMML), New Delhi, India.

⁵³ A. G. Hopkins, "Back to the Future: From National History to Imperial History," *Past & Present*, 164 (1999), 198-243.

nation-state was both the goal and the natural end-state of anti-colonial agitation. The nationalist historiography of India, for example, ignored legal history in favor of “an exclusive interest in lawyers who went on to become anticolonial freedom fighters.”⁵⁴ Nation-statist histories in India and Pakistan also removed inconvenient leaders, ones who could no longer belong “to the story of their ‘struggle for freedom’ from British rule but [only] to another illegitimate and deviant history that led to partition.”⁵⁵ The intellectual history of political thought retreated within these national-state borders, and the normative status of the nation-state led to its problematic acceptance as “the political form characteristic of the ‘modern’ era.”⁵⁶

In this context, Alexandrowicz’s claim of universality in early modern international law underpinned an argument both policy-related and moral. He posited that the exclusion of Asian states from the “family of nations” in the nineteenth and twentieth centuries had been a deviation from historical and proper state practice. Notably, the success of this normative assertion depends on the excision of Asian states from international space. Acknowledging non-European contributions to international law

⁵⁴ Mitra Sharafi, “A New History of Colonial Lawyering: Likhovski and Legal Identities in the British Empire,” *Law & Social Inquiry*, 32 (2007), 1059-1094, at 1060.

⁵⁵ Mridu Rai, “History on the Line: Jinnah and the Demise of a Hindu Politician,” *History Workshop Journal*, 62 (2006), 232-240, at 234; Gyanendra Pandey, “Can a Muslim be an Indian?,” *Comparative Studies in Society and History*, 41 (1999), 608-629.

⁵⁶ Frederick Cooper, “Empire Multiplied: A Review Essay,” *Comparative Study of Society and History*, 46 (2004), 247-272, at 247; David Armitage, “The Fifty Years’ Rift: Intellectual History and International Relations,” *Modern Intellectual History*, 1 (2004), 97-109; Duncan S. A. Bell, “Empire and International Relations in Victorian Political Thought,” *The Historical Journal*, 49 (2006), 281-298.

during the nineteenth and twentieth centuries could have undermined his argument for the postcolonial reemergence of historically appropriate, ethical state practice.

Consequently, he relied too much on particular interpretive concepts: universality, state practice, rupture, and exclusion. The East India Company often abrogated treaties, and the EIC used force to assume direct control over sixty percent of the territory and seventy-five percent of the people in South Asia between 1757 and 1857.⁵⁷ Dispossession occurred gradually, and universality was honored more in theory than in practice. Moreover, British imperial expansion relied not only on the subjugation of South Asian sovereigns but also on the control of non-state social, economic, and religious inter-relations. Alexandrowicz overstated both the supposed rupture caused by positivism and the degree to which South Asians were excluded from international life. Older inter-relational pathways and patterns endured and formed the basis for South Asians' international politico-legal argumentation and action.

Inter-Relations in South Asia before the Nineteenth Century

Diverse overland and oceanic pathways connected peoples throughout the region stretching from the Mediterranean and east Africa into Southeast Asia and China starting in ancient times.⁵⁸ Geographically situated in the middle of this region, the Indian

⁵⁷ Michael H. Fisher (ed.), *The Politics of the British Annexation of India, 1757-1857* (Delhi, 1993).

⁵⁸ Marshall G. S. Hodgson, *The Venture of Islam: Conscience and History in a World Civilization*, 3 vols. (Chicago, 1974), especially vol. 1, 3-145, on the world before Islam; Sheldon Pollock, *The Language of the Gods in the World of Men: Sanskrit, Culture, and Power in Premodern India* (Berkeley, 2006); Hyunhee Park, *Mapping the Chinese and Islamic Worlds: Cross-Cultural Exchange in Pre-Modern Asia* (Cambridge, 2012); M. N. Pearson, *The Indian Ocean* (New York, 2003).

subcontinent was, in the words of Janet Abu-Lughod, “on the way to everywhere.”⁵⁹ A Muslim world system existed, in the medieval period, interposed between Europe and Asia.⁶⁰ A Sanskritic world system rooted in linguistic and cultural power radiated outward from South and Southeast Asia.⁶¹ The peoples of South Asia, moving along networks of varying densities, were embedded in the political, economic, cultural, and religious inter-relations that structured historical developments in the region.⁶²

Affiliative sensibilities or identities arose from multiple sources, including shared language, religion, or kinship or membership in a scholarly, artisanal, laboring, or commercial group.⁶³ Rulers did use political power and military force to consolidate cities and their outlying agricultural areas into states and to aggregate states into multi-national, civilizational empires, but rulers’ power tended to be persuasive rather than compulsive.⁶⁴ Local and global factors, much more than the state, structured inter-relations among peoples.⁶⁵ Rulers worked to balance interests rather than to homogenize difference.

⁵⁹ Janet Abu-Lughod, *Before European Hegemony: The World System A.D. 1250-1350* (Oxford, 1989), 261.

⁶⁰ Abu-Lughod, *Before European Hegemony*; Hodgson, *The Venture of Islam*.

⁶¹ Pollock, *The Language of the Gods*.

⁶² Sanjay Subrahmanyam, “Connected Histories: Notes towards a Reconfiguration of Early Modern Eurasia,” *Modern Asian Studies*, 31 (1997), 735-762; David Washbrook, “India in the Early Modern World Economy: Modes of Production, Reproduction and Exchange,” *Journal of Global History*, 2 (2007), 87-111.

⁶³ Catherine B. Asher and Cynthia Talbot, *India before Europe* (Cambridge, 2006).

⁶⁴ Muzaffar Alam, *The Languages of Political Islam in India, c. 1200-1800* (New Delhi, 2004).

⁶⁵ Subrahmanyam, “Connected Histories;” David Washbrook, “India in the Early Modern World Economy.”

European inter-relations also developed over time, expanded through voyaging, and were altered through interactions with previously unknown peoples.⁶⁶ English traders arrived in South Asia with distinct ideas about infidels and pagans, who would become the uncivilized and the barbarian populations, respectively, that occupied so much of the intellectual energy of nineteenth-century imperial and international legal theorists.

European voyagers resolved religious and political-theoretical arguments about the proper treatment of indigenous peoples in the Americas in favor benevolent oppression, albeit near-genocidal violence had occurred in practice.⁶⁷ Theorists argued that indigenous populations existed and should be treated kindly but that they were incapable of self-rule, possessing no understanding of enlightened political institutions, or of the proper use of god-given resources, such as land.⁶⁸

The English interacted extensively with Muslim populations, too. Muslim traders operated in English and Welsh ports, while English traders could be found throughout north Africa. Muslims worked in London, and Englishmen settled in Morocco and Tunisia.⁶⁹ Interactions among Christians and Muslims in England were more engaging and informative than adversarial.⁷⁰ John Locke's theory of tolerance responded to the

⁶⁶ Alison Games, *The Web of Empire: English Cosmopolitans in an Age of Expansion, 1560-1660* (Oxford, 2008); Kerry Ward, *Networks of Empire: Forced Migration in the Dutch East India Company* (Cambridge, 2008).

⁶⁷ Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500-1800* (New Haven CT, 1995).

⁶⁸ John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650-1900* (Montreal, 2003).

⁶⁹ Nabil Matar, *Turks, Moors, and Englishman in the Age of Discovery* (New York, 2000).

⁷⁰ Nabil Matar, *Islam in Britain, 1558-1685* (Cambridge, 2008).

presence of Muslims in England, countering the negative literary and theological depictions of Islam with the positive portrayals of Muslims shared by diplomats and traders.⁷¹ What constituted proper relations between England and South Asia was very much undecided when South Asians began migrating to England shortly after 1600, but South Asian wives of English traders entered high society; Indian merchants in London sought and received satisfactory arbitration of business disputes; and Indian seamen stranded in England petitioned successfully for financial support from the Company..⁷²

Tolerance at home did not necessarily extend overseas. Political theorists criticized the absolutism of infidel governments on the basis of a fifteenth-century distinction between *dominium regale* and *dominium politicum et regale*, between absolute monarchy and monarchy tempered by parliamentary oversight. Originally, the English mobilized this distinction to criticize continental European governments, but it became the foundation, first, for a critique of non-European and non-Christian rulers and, later, for the concept of natural, or innate, Oriental despotism.⁷³ The problem for Europeans overseas revolved around the appropriate structure of regulation for the relationships between proper and improper sovereigns. The issue of *dominium*, the right to rule over specified territory, was complicated overseas by the issue of *imperium*, the need to

⁷¹ Nabil Matar, "Britons and Muslims in the Early Modern Period: From Prejudice to (a Theory of) Toleration," *Patterns of Prejudice*, 43 (2009), 213-231.

⁷² Rozina Visram, *Asians in Britain: 400 Years of History*, (London, 2002); Michael Fisher, *Counterflows to Colonialism: Indian Travellers and Settlers in Britain, 1600-1857* (Delhi, 2004).

⁷³ F. Venturi, "Oriental Despotism," *Journal of the History of Ideas*, 24 (1963), 133-142; Joan-Pau Rubies, "Oriental Despotism and European Orientalism: Botero to Montesquieu," *Journal of Early Modern History*, 9 (2005), 109-180.

determine how far sovereign jurisdiction, or the right to rule, extended.⁷⁴ David Armitage identified “the problem of uniting *imperium* and *dominium*... as the fundamental and ultimately combustible dilemma at the core of British imperial ideology.”⁷⁵ It remained so into the nineteenth century, when these ideas were “surely the common currency of Macaulay’s schoolboys.”⁷⁶

Machiavelli had argued that an empire could remain free only by avoiding the corruption of expanding territorial control, and international political theorists resolved the paradox of empire and liberty by elevating commerce as the most acceptable reason for empire during the eighteenth century.⁷⁷ A national sensibility, the idea of Britishness, developed simultaneously following the Act of Union that created the United Kingdom of Great Britain from the unification of England, Scotland and Wales in 1707.⁷⁸ Britishness failed to unite the colonies for long, because the notional unity of empire could not conceal the repressive social, political, and economic realities of imperial administration, which demonstrated to the colonists exactly how the empire had failed to deliver on the promise of constitutional equality. The composite nature of the empire, which had

⁷⁴ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge, 2010).

⁷⁵ David Armitage, *The Ideological Origins of the British Empire* (Cambridge, 2000), 94.

⁷⁶ H. G. Koenigsberger, “Monarchies and Parliaments in Early Modern Europe: *Dominium Regale* or *Dominium Politicum et Regale*,” *Theory and Society*, 5 (1978), 191-217. Thomas Babington Macaulay (1800–1859), historian, essayist, and lawyer: he worked for the EIC in India (1834-1838) and is, perhaps, most famous for his *Minute on Indian Education* (February 2, 1835), which argued in favor of Anglicizing education in India. The Indian Penal Code of 1860 was based on a code drafted by Macaulay in the 1830s.

⁷⁷ Armitage, *The Ideological Origins*; see, also, Istvan Hont, *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Cambridge MA, 2005).

⁷⁸ Linda Colley, *Britons: Forging the Nation, 1707-1837*, second ed. (New Haven CT, 2005).

provided the historical context for the ideology of empire, ultimately led to the separatism of the American Revolution and the perception among theorists and historians of a “first” and “second” British empire.⁷⁹

Britishness eventually displaced the composite imperial ideal in favor of a unitary state. The government increased taxes and used deficit financing to expand the military and public administration.⁸⁰ The British state emerged, during this period of military fiscalism, as a global power. British national identity, military fiscalism, the relative security of settled intra-European borders, and global commercial competition propelled increasingly invasive colonial practices in the extra-European world.⁸¹ Adam Smith wrote about the European empires in North America that “when these discoveries were made, the superiority of force happened to be so great on the side of the Europeans, that they were enabled to commit with impunity every sort of injustice.”⁸² This assertion described the situation in India increasingly well between the mid-eighteenth and the mid-nineteenth centuries.

The East India Company replicated domestic patterns of increased taxation, debt financing, and militarization in India, which led to the Company’s transformation from

⁷⁹ J. H. Elliott, “A Europe of Composite Monarchies,” *Past & Present*, 137 (1992), 48-71.

⁸⁰ John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (Cambridge MA, 1988).

⁸¹ Robert Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge, 2007).

⁸² Quote in Pagden, *Lords of All the World*, 178.

one of many state entities in South Asia to the most powerful state in the subcontinent.⁸³ The East India Company's directors, empowered by the EIC's charter to levy taxes and to make war, ignored Machiavelli's admonition against imperial territorial aggrandizement as attention shifted from trade to the provision of political temperance in opposition to supposedly capricious local tyrants.⁸⁴ Specious legal rationalizations justified territorial annexations to "protect" indigenous peoples from Oriental despots. The systematizing ideologies and practices of the nineteenth and twentieth centuries continued to alter the pluralistic inter-relations of earlier centuries, but the power of the imperial state never eliminated South Asians' resistance to these ideologies and practices.

Scope and Summary

This study is no less influenced by the time in which it has been produced than was Alexandrowicz's work. A survey of recent scholarship reveals a resurgence of interest in the histories of empires and of international political thought, law, and institutions, especially as these are related to global policy-making.⁸⁵ One characteristic of the newer work has been a desire to avoid the unquestioning acceptance of the nation-state and what Hedley Bull called the "tyranny of the concepts and normative principles

⁸³ C. A. Bayly, *Imperial Meridian: The British Empire and the World, 1780-1830* (London, 1989).

⁸⁴ Philip J. Stern, *The Company State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (Oxford, 2012); Travers, *Ideology and Empire*.

⁸⁵ James Crawford and Martti Koskenniemi, "Introduction," in Crawford and Koskenniemi (eds.), *The Cambridge Companion to International Law* (Cambridge, 2012); Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order* (Cambridge, 2004).

associated with [the states system].”⁸⁶ New studies of international political thought, including jurisprudence, have revisited the empires of the nineteenth and early twentieth centuries to argue that imperial ideologies and the experience of empire played a critical role in the construction of ideas about liberalism and global order and in the elaboration of international law and institutions.⁸⁷

One historian, Jennifer Pitts, averred that political theorizing in the 1780s appeared “to hold the promise of a critical approach to European expansion” that was displaced “by an imperial liberalism that by the 1830s provided some of the most insistent and well-developed arguments in favor of the conquest of non-European peoples and territories.”⁸⁸ It should be clear, however, that the contours of these debates were not decided only in Europe but were the product of more than two centuries of inter-relations among Europeans and non-Europeans. The question of whether, and by what logic, to rule overseas dominated nineteenth-century liberalism, defined by Cheryl Welch as:

a commitment to certain individual rights (specifically equality before the law, freedom of the press, and religious freedom), opposition to the policies of the

⁸⁶ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Macmillan, 1977), 275; see, also, Hopkins, “Back to the Future;” Jens Bartelson, *The Critique of the State* (Cambridge, 2001).

⁸⁷ Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (Chicago, 1999); Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, 2005); Koskenniemi, *The Gentle Civilizer of Nations*; Anghie, *Imperialism, Sovereignty and the Making of International Law*; Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge, 2002); Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge, 2010); Erez Manela, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism* (Oxford, 2007); Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (Oxford, 2015).

⁸⁸ Pitts, *A Turn to Empire*, 2; see, also, Jennifer Pitts, “Empire and Legal Universalisms in the Eighteenth Century,” *The American Historical Review*, 117 (2012), 92-121; Alexandrowicz, *An Introduction to the History of the Law of Nations*.

mercantilist state, opposition to monarchical power if not to monarchical government, and a certain expansiveness of social sympathies.⁸⁹

The tensions within the late eighteenth-century debates about the possibility for colonial rule were heightened in the nineteenth, when European empires extended their reach throughout the non-European world and increasing numbers of colonized peoples entered the debates.⁹⁰ Most British intellectuals and statesmen responded by attempting “to establish overseas despotisms which mirrored in many ways the politics of neo-absolutism and the Holy Alliance of contemporary Europe.”⁹¹ Most public intellectuals formed justifications for empire, but criticism existed and persisted.⁹² Many South Asians were optimistic about the potential under British administration for political, economic, and educational progress in India.⁹³ They shared liberal values, such as justice, equity, liberty, and a commitment to the common good that combined eighteenth-century civic humanism and nineteenth-century civic nationalism.⁹⁴ South Asians’ politico-legal

⁸⁹ Cheryl Welch, *Liberty and Utility: The French Ideologues and the Transformation of Liberalism* (New York, 1984), 4.

⁹⁰ C. A. Bayly, *The Birth of the Modern World, 1780-1914: Global Connections and Comparisons* (Malden MA, 2004); C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge, 2012).

⁹¹ Bayly, *Imperial Meridian*, 8.

⁹² Claeys, *Imperial Sceptics*; Bernard Porter, *Critics of Empire: British Radicals and the Imperial Challenge*, second ed. (London, 2008).

⁹³ Tapan Raychaudhuri, *Europe Reconsidered: Perceptions of the West in Nineteenth Century Bengal* (Delhi, 1988).

⁹⁴ Bayly, *Recovering Liberties*; Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton, 2010); see, also, Andrew Sartori, “The British Empire and Its Liberal Mission,” *Journal of Modern History*, 78 (2006), 623-642.

argumentation aimed to compel the British government, the British state, to recognize these values as the common currency of the empire.

They faced a difficult challenge. Britain emerged from the Napoleonic wars and the Congress of Vienna, in 1815, as a global power with renewed confidence and the power to shape both European and global commerce and politics.⁹⁵ The agreement in Vienna, that the Great Powers would resolve European disputes by acting in diplomatic concert, exacerbated imperial rivalries by exporting the practice of policing the borders within Europe to Asia and Africa. British international thought and practice shifted towards state-centrism and the systematization of the empire and away from inter-polity pluralism. Anti-colonial violence resulted, and British optimism turned pessimistic.

The European revolutions of 1848 were followed by the Indian revolt in 1857 and the rebellion in Jamaica in 1865, and the Māori wars in New Zealand that persisted until 1872.⁹⁶ Russian interference with the Ottoman empire and expansion in Central Asia appeared threatening, and Germany and the United States became global powers.⁹⁷ Legal theorists responded in three ways. They adopted a natural-scientific “evolutionary-progressive historical perspective” to resolve the problem of empire and liberty by

⁹⁵ Benton and Ford, *Rage for Order*; David A. Bell, *The First Total War: Napoleon's Europe and the Birth of Warfare as We Know It* (New York, 2007); Adam Zamoyski, *Rites of Peace: The Fall of Napoleon and the Congress of Vienna* (New York, 2007).

⁹⁶ Miles Taylor, “The 1848 Revolutions and the British Empire,” *Past and Present*, 166 (2000), 146-180; Bernard Semmel, *The Governor Eyre Controversy* (London, 1962); R. W. Kostal, *A Jurisprudence of Power: Victorian Empire and the Rule of Law* (Oxford, 2005); James Belich, *The Victorian Interpretation of Racial Conflict: the Maori, the British, and the New Zealand Wars* (Montreal, 1989).

⁹⁷ Paul Kennedy, *The Rise and Fall of Great Powers: Economic Change and Military Conflict from 1500 to 2000* (New York, 1987).

identifying peoples, or polities, who were unable to form states.⁹⁸ They institutionalized the international legal field, founding the Institute of International Law in 1873.⁹⁹ Finally, they undertook clarifying projects of codification for international law, as had been done within Britain and the colonies, and focused scholarly attention on the international arbitration of disputes.¹⁰⁰

British intellectuals, statesmen, diplomats, and imperial agents were preoccupied by the task of defining and creating order among discrete states and different peoples during the nineteenth and twentieth centuries.¹⁰¹ Their ideas and practices mattered greatly because, although its supremacy was increasingly contested, Britain dominated global politics for most of the nineteenth century and remained a great power into the twentieth century.¹⁰² The concepts of civilization and progress, informed by the practice of history, buttressed their efforts to achieve order.¹⁰³ Historical interpretation acted “to stage disputes and stake claims over the normative foundations of legal principles, to

⁹⁸ Sylvest, “International Law in Nineteenth-Century Britain,” 37; Jennifer Pitts, “Boundaries of Victorian International Law,” in Bell (ed.), *Victorian Visions of Global Order*, 67-88.

⁹⁹ Koskenniemi, *The Gentle Civilizer of Nations*.

¹⁰⁰ Sandra den Otter, “‘A Legislating Empire’: Victorian Political Theorists, Codes of Law, and Empire,” in Bell (ed.), *Victorian Visions of Global Order* (Cambridge, 2008), 89-112.

¹⁰¹ Jennifer Pitts, *Boundaries of the International: Law and Empire* (Cambridge MA, 2018); Benton and Ford, *Rage for Order*; Bell, *The Idea of Greater Britain*.

¹⁰² Duncan Bell (ed.), *Victorian Visions of Global Order: Empire and International Relations in Nineteenth-Century Political Thought* (Cambridge, 2008).

¹⁰³ Theodore Koditschek, *Liberalism, Imperialism, and the Historical Imagination: Nineteenth-Century Visions of a Greater Britain* (Cambridge, 2011); Mantena, *Alibis of Empire*; Sudipta Sen, *Distant Sovereignty: National Imperialism and the Origins of British India* (New York, 2002)

justify novel practices as conventional, and to demarcate the boundaries of the international legal community.”¹⁰⁴

The interest in order was indelibly connected to the process of systematizing the empire.¹⁰⁵ Intellectuals adapted the natural-scientific practice of categorization to organize global socio-political order by ranking different peoples using an instrumentally flexible, historical-evolutionary “standard of civilization.”¹⁰⁶ Civilizational inferiority, the incapacity for reciprocity, and the propensity for misrule characterized the peoples who failed to meet the standard, and the dominant strain of global political and legal thought required the exclusion of “uncivilized” or “backward” peoples, including infidels, and non-Europeans, generally, from the scope of international law.¹⁰⁷

British state practice actuated ideology by enacting governance in ways designed to exclude particular peoples from the realm of colonial governance.¹⁰⁸ State practice also excluded colonized peoples from both imperial and international relations. Theorists and

¹⁰⁴ Pitts, *Boundaries of the International*, 4.

¹⁰⁵ Matthew H. Edney, *Mapping an Empire: The Geographical Construction of British India, 1765-1843* (Chicago, 1997); Peter Gottschalk, *Religion, Science and Empire: Classifying Hinduism and Islam in British India* (New York, 2013); Benton and Ford, *Rage for Order*; John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830-1970* (Cambridge, 2009).

¹⁰⁶ Gerrit W. Gong, *The Standard of ‘Civilization’ in International Society* (Oxford, 1984); Brett Bowden, *The Empire of Civilization: The Evolution of an Imperial Idea* (Chicago, 2009).

¹⁰⁷ Casper Sylvest, “International Law in Nineteenth-Century Britain,” *The British Yearbook of International Law*, 75 (2005), 9-70.

¹⁰⁸ Philip J. Stern, *The Company State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (Oxford, 2012); Michael Fisher, *Indirect Rule in India: Residents and the Residency System, 1764-1858* (Oxford, 1994); Bayly, *Imperial Meridian*; Jon E. Wilson, *The Domination of Strangers: Modern Governance in Eastern India, 1780-1835* (London, 2008); Rachel Sturman, *The Government of Social Life in Colonial India: Liberalism, Religious Law, and Women’s Rights* (Cambridge, 2012); Elizabeth Kolsky, *Colonial Justice in British India* (Cambridge, 2010); Maria Misra, *Business, Race, and Politics in British India c. 1850-1960* (Oxford, 1999).

practitioners, both, believed that Britain's global mission on behalf of the civilized world justified imperial expansion, the expropriation of resources, the imposition of British rule, and more limited, violent interventions in the affairs of putatively uncivilized states and peoples.¹⁰⁹ One scholar referred to international law, at least in the early modern period, as the means for articulating a "legal logic of conquest."¹¹⁰ The work on political thought tends "to emphasize perceptions in Europe of relations in empire," leaving South Asians out of the story.¹¹¹ Conversely, the work on colonial governance in South Asia tends to focus on the local or national dimensions of this history, neglecting the global transformations in which South Asians were involved.

Recent scholarship on colonial legal conflicts provides a first step towards combining the fields of political thought and colonial governance. This work describes empire in a way that emphasizes the global exchange of ideas and the active connections between colonizers and the colonized.¹¹² Elite, English-speaking South Asians, for example, acted as cultural translators or intermediaries in the process of cultural and legal

¹⁰⁹ Andrew Fitzmaurice, *Sovereignty, Property and Empire, 1500-2000* (Cambridge, 2014); For a discussion of *Calvin's Case* (1608), the earliest English case dealing with conquest and the law of nations, see Daniel Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (Chapel Hill NC: University of North Carolina Press, 2005), 20-28; see, also, Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500 - c. 1800* (New Haven, 1995), 63-102; Karma Nabulsi, *Traditions of War: Occupation, Resistance, and the Law* (Oxford, 1999).

¹¹⁰ Lauren Benton, "The Legal Logic of Wars of Conquest: Truces and Betrayal in the Early Modern World," *Duke Journal of Comparative & International Law*, 28 (2018), 425-448.

¹¹¹ Lauren Benton, "From International Law to Imperial Constitutions: The Problem of Quasi-Sovereignty, 1870-1900," *Law and History Review*, 26 (2008), 595-619, at 596.

¹¹² Benton, *A Search for Sovereignty*; Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842-1933* (Cambridge, 2016); see, also, John Darwin, *After Tamerlane: The Rise and Fall of Global Empires, 1400-2000* (New York, 2008), for "resilience... in the face of Europe's expansion," 6.

adaptation that occurred between Indians and others in the context of disputes in the colonial, imperial, and international environments.¹¹³ This work demonstrates how ideas were actualized as practices of law and governance and, consequently, modified.¹¹⁴ For example, international legal thought and local, imperial-institutional challenges combined to create imperial constitutional law in India.¹¹⁵ These cross-cultural interactions, and South Asians' responses to administrative practice, used and re-created bodies of knowledge that informed theory and praxis.¹¹⁶ This work on colonial disputes recognizes the importance of legal rhetoric and law in South Asia, and of colonial knowledge, but also largely ignores South Asians' contributions to international thought and law. Most often, however, colonial legal disputes were not purely local or national.

The process of globalization—tied to the movement of peoples, capital, goods, and information—strengthened the connection between politics and events at the domestic and the global levels.¹¹⁷ Studies of South Asian migration illuminate the

¹¹³ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge, 2002).

¹¹⁴ Ritu Birla, *Stages of Capital: Law, Culture, and Market Governance in Late Colonial India* (Durham NC, 2009); Mrinalini Sinha, *Specters of Mother India: The Global Restructuring of an Empire* (Durham NC, 2006); see, also, Paul McHugh, *Aboriginal Societies and the Common Law: A History of Sovereignty, Status, and Self-Determination* (Oxford, 2004).

¹¹⁵ Benton, "From International Law to Imperial Constitutions."

¹¹⁶ Thomas R. Metcalf, *Ideologies of the Raj* (Cambridge, 1995); Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton, 1996); C. A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge, 1996); Sugata Bose and Kris Manjapra, *Cosmopolitan Thought Zones: South Asia and the Global Circulation of Ideas* (New York, 2010).

¹¹⁷ Robert O. Keohane and Helen V. Milner (eds.), *Internationalization and Domestic Politics* (Cambridge, 1996); Gary Magee and Andrew Thompson, *Empire and Globalisation: Networks of People, Goods and Capital in the British World, c 1850-1914* (Cambridge, 2010)

possibility for the globalization of colonial disputes.¹¹⁸ Thomas Metcalf has argued that India was “a nodal point from which peoples, ideas, goods, and institutions—everything that enable[d] empire to exist—radiated outward.”¹¹⁹ Migration altered the global legal context because South Asians carried with them the civilizational difference upon which colonial rule was predicated.¹²⁰

Ideological debates about whether, by what right, or to what end the British might rule South Asian peoples in India traveled when South Asians arrived elsewhere, not least because South Asians participated actively in social life, and continued expressing opinions and criticizing discriminatory policies, regardless of their location.¹²¹ Migration converted domestic debates and disputes into intra-imperial and international questions arising from the conflict of political theories and of laws.¹²² Migration also made it possible for South Asian cultural translators to enter what the intellectual historian Stefan Collini called the “well-connected intellectual-cum-political stratum” in British society

¹¹⁸ Sunil S. Amrith, *Migration and Diaspora in Modern Asia* (Cambridge, 2011); Adam McKeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York, 2008).

¹¹⁹ Thomas R. Metcalf, *Imperial Connections: India in the Indian Ocean Arena, 1860-1920* (Berkeley, 2007), 1.

¹²⁰ Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality* (Cambridge, 2008).

¹²¹ Rozina Visram, *Asians in Britain: 400 Years of History*, (London, 2002); A. Martin Wainwright, ‘The Better Class’ of Indians: *Social Rank, Imperial Identity, and South Asians in Britain, 1858-1914* (Manchester, 2008); Sukanya Banerjee, *Becoming Imperial Citizens: Indians in the Late-Victorian Empire* (Durham NC, 2010).

¹²² Richard J. Popplewell, *Intelligence and Imperial Defence: British Intelligence and the Defence of the Indian Empire, 1904-1924* (London, 1995); B. Pachai, *The International Aspects of the South African Indian Question, 1860-1971* (Cape Town, 1971); Hugh Johnston, *The Voyage of the Komagata Maru: The Sikh Challenge to Canada's Colour Bar* (New Delhi, 1979); Harold Gould, *Sikhs, Swamis, Students, and Spies: The India Lobby in the United States, 1900-1947* (New Delhi, 2006).

and, according to Christopher Bayly's intellectual history of South Asian liberalism, "to bring their concerns and formulations [for good governance] to the attention of their British rulers and to American and wider European opinion."¹²³

This study analyzes law-making outside of the traditional framework of treaties, treatises, and states, by approaching international law as "an argumentative practice in which political claims are defended and attacked," to borrow the words of international legal historian Martti Koskenniemi.¹²⁴ It also attempts to place the perspectives of historians of international law and historians of South Asia into the same scholarly framework by taking "international law [as a] process of articulating political preferences into legal claims that cannot be detached from the conditions of political contestation in which they are made."¹²⁵ This dissertation uses both published and archival sources. Published work on international law, commentary on international affairs, imperial constitutional treatises and histories, and essays and books on relevant issues written by characters in this story have been crucial. Archival research was conducted in India, the United Kingdom, Switzerland, and the United States.

Efforts to imagine, create, and manage global order between the mid-nineteenth century and 1920 focused on states and peoples and relied on classification, hierarchization, and historical justification for imperial rule. Representatives of the

¹²³ Stefan Collini, *Public Moralists*, 270; Bayly, *Recovering Liberties*, vii-viii.

¹²⁴ Martti Koskenniemi, "Law, Teleology and International Relations: An Essay in Counterdisciplinarity," *International Relations*, 26 (2012), 3-34, at 3; see, also, Benton and Ford, *Rage for Order*.

¹²⁵ Martti Koskenniemi, "International Law and Hegemony: A Reconfiguration," *Cambridge Review of International Affairs*, 17 (2004), 197-218, at 198; see, also, Pitts, *Boundaries of the International*.

British empire-state attempted to sub-divide and systematize global space, assigning particular peoples to specific geopolitical locations and regulating both their civic participation within those spaces and the relationships between and among those spaces. The four chapters that follow this introduction examine South Asians' international legal discourse within varied political and legal spaces to demonstrate how South Asians' ideas about, and actions within and among, these various spaces reconfigured the conceptualization of international space, law, and politics from roughly 1850 until immediately after the First World War.

One can look to prominent international politico-legal theorists of the time to understand the mood of this period and the way South Asians confronted the challenge of Britain's attempted erasure of their international legal existence. Henry Sumner Maine (1822-1888), a British jurist, came of age during a period of national and imperial confidence in the 1820s and the 1830s, but he served as the legal advisor to the Governor-General's council in India from 1862 to 1869, a time of rising pessimism. He described the turning point in his Cambridge lectures on international law in 1887, writing, about the public intellectuals of the 1850s: "[t]hat generation may be said to have had a dream of peace." The Great Exhibition

in 1851... added to the belief that wars had ceased... superseded by competition in the peaceful arts. ... But the buildings of this Temple of Peace had hardly been removed when war broke out again, more terrible than ever. First came the

Crimean War... then followed the frightful struggle of the Indian Mutiny... [and] to the believers in the permanent return of peace they were a bitter deception.¹²⁶

William Edward Hall (1835-1894), another British jurist, expressed similar pessimism in 1890, fearing that a brutal and “unscrupulous” European war was on the horizon, during which “the strength of international law [would] be too hardly tried,” but Hall, foreshadowing the post-war optimism of 1919, also believed that this war would “be followed by a reaction towards the increased stringency of law.”¹²⁷

Hersch Lauterpacht (1897-1960), a Polish, Jewish emigre to Britain and, perhaps, the most prominent exponent of twentieth-century international jurisprudence, confirmed Hall’s wary optimism. In 1925, he quoted Alfred Tennyson’s poem, “Locksley Hall,” written in 1835, early in the hopeful era referenced by Maine, to argue that ongoing revisions in international legal thought and practice and the creation of the League of Nations signaled human progress towards “the Parliament of Man, the Federation of the World.”¹²⁸ International law, he claimed, was “no longer a servile *ancilla regnorum* [aid to royal, or sovereign, power] registering the practice of states and supplying a scientific justification for the dogma of sovereignty.”¹²⁹

South Asians contributed to creating this situation. James Bryce (1838-1922), a British jurist, historian, and politician, provided the best way to understand how South

¹²⁶ Henry Sumner Maine, *International Law: A Series of Lectures Delivered before the University of Cambridge, 1888* (London, 1888), 3-5.

¹²⁷ William Edward Hall, *A Treatise on International Law*, third ed. (Oxford, 1890), ix-x.

¹²⁸ Quote in Hersch Lauterpacht, “Westlake and Present Day International Law,” *Economica*, 15 (1925), 307-325, at 324.

¹²⁹ Lauterpacht, “Westlake and Present Day International Law,” 308.

Asians affected global ordering, when he distinguished between legal sovereignty (*de jure*) and practical sovereignty (*de facto*).¹³⁰ Legal sovereignty inhered in “the person (or body) to whose directions the law attribute[d] legal force,” that is, the person or body “whose authority [was] that of the law itself.”¹³¹ Legal sovereignty lay at the heart of the dominant, theoretical doctrine of the nineteenth century, legal positivism, which reduced international law to the mere practice of states as commanded by sovereign power, in Britain, the Queen and Parliament. Practical sovereignty, on the other hand, resided in “the person (or body of persons) who [could] make his (or their) will prevail whether with the law or against the law.”¹³²

South Asians mobilized popular, practical sovereignty against states’ claims of legal sovereignty to take advantage of ambiguity related to the recognition of international legal personality and statehood. The declarative theory of recognition straightforwardly required that specific criteria be met before the fact of statehood could be acknowledged.¹³³ Those were a national population, delimited territory, an efficacious government, and independence, defined as the capacity to form reciprocal relationships with other states. The constitutive theory “deduce[d] the legal existence of new States from the will of those already established,” which created space for recognized states to

¹³⁰ James Bryce, “The Nature of Sovereignty,” In James Bryce, *Studies in History and Jurisprudence* (New York, 1901), 503-555.

¹³¹ Bryce, “The Nature of Sovereignty,” 505.

¹³² Bryce, “The Nature of Sovereignty,” 512.

¹³³ See, James Crawford, *The Creation of States in International Law* (Oxford, 1979), 3-95.

make political judgements about the recognizability of other, potentially international states.¹³⁴ South Asians' use of international legal discourse to intervene in ideological and political disputes before 1920 created a novel, anomalous form of separate Indian statehood that was recognized at the Paris Peace Conference 1919.¹³⁵ Their interventions had led, slowly and with odd consequences, to the partial realization of Dadabhai Naoroji's vision of an Indian government that acted as "an independent Power," though the interwar years would require continued struggle to achieve a government that fully "represent[ed] Indian interests."¹³⁶

Chapter 1 focuses on the role of Dadabhai Naoroji's civilizational and international legal discourse in his rhetorical construction of a discrete Indian state within an imperial commonwealth. It first introduces Naoroji's formative civilizational and legal intellectual antecedents between the 1780s and the 1840s, when liberals opposed theoretical arguments favoring conquest with a commitment to legal equality, religious freedom, and opposition both to mercantilism and to absolute monarchical power. The chapter then examines the international legal argumentation related to the revolt of 1857. Naoroji gained the power to inform and affect public opinion in Britain by cultivating relationships with prominent British intellectuals, statesmen, colonial administrators, reformers, and businessmen and by sharing his ideas in English through the Victorian

¹³⁴ Hersch Lauterpacht, *Recognition in International Law* (Cambridge, 1947), 38; see, also, Jens Bartelson, "Recognition: A Short History," *Ethics & International Affairs*, 30 (2016), 303-321.

¹³⁵ See, H. W. V. Temperley (ed.), *A History of the Peace Conference of Paris*, 6 vols. (London, 1920-1924); David Hunter Miller, *The Drafting of the Covenant*, 2 vols. (New York, 1928).

¹³⁶ Naoroji, "Expenses of the Abyssinian War," 50.

press and in academic journals and at academic conferences and in political associations and institutions, all of which were recognizable and “western” in British eyes.

Naoroji built on this foundation to advocate for a representative government that recognized specific Indian interests and acted to ensure the welfare of the population through the argumentative use of the idea of national character, derived from liberal and international political thought. The chapter analyzes his arguments during the 1860s about good governance in British India and his critique of British rule in India for failing to fulfill its practical duties and ethical obligations to South Asians by restricting civic participation. Naoroji argued that the putatively poor civilizational and national character of India, which deprived the state of international recognition, resulted from Britain’s failure to govern according to its self-proclaimed ideals. His rhetoric re-constructed the British imperial state as a representative state of which India was a discrete political-economic unit and advocated for South Asians as the rights-bearing subject-citizens of both.

Chapter 2 analyzes three South Asian Muslim modernists’ use of history and of international legal discourse between the mid-1850s and the mid-1880s in ideological disputes about Muslim-Christian civilizational difference during debates over the “Eastern Question,” the issue of European, international relations with the Ottoman empire. Muslims occupied a unique position in nineteenth-century international legal thought. Legal theorists allowed that Muslims were not barred entirely, on civilizational grounds, from possessing sovereign rights. The Ottoman empire had been absorbed into

the “civilized,” international family of nations in 1856, following the Crimean War. Muslim rulers had been dispossessed of *dominium*, or sovereignty, in the subcontinent only in 1858.

Sayyid Ahmad Khan, Syed Ameer Ali, and Chiragh Ali accentuated the disjuncture between Ottoman recognition and South Asian dispossession. Like Naoroji, they cultivated relationships that ensured their ideas would be heard and considered seriously, and they used recognizable institutions and venues for public-intellectual communication to share their ideas. They reinterpreted Islamic history to argue for the specific national character of Muslims based on their capacity for recognizing and respecting civic rights and reciprocity in their engagements with non-Muslims. They argued for the international status of Muslims and the character-based civic-participatory rights of Muslims in India.

Chapter 3 focuses particularly on the dispute over the rights of South Asians in the South African Republic, or the Transvaal, which was both an internationally recognized state and part of Britain’s informal empire between 1850 and 1902. It examines how the ideas discussed in chapters one and two were put into action by South Asian migrants, who were not members of the public-intellectual class but instead were laborers, traders, and small business owners. It opens in the 1830s, when political liberalism underpinned the idea and adoption of responsible or self-government in the white settler colonies, which became the demand of South Asians in India. The chapter analyzes innovations in imperial governance in light of the tension between unity and separatism in imperial

thought within and between both the white settler colonies, later known as the Dominions, and India up to 1917.

South Asian indentured laborers began arriving in southern Africa in the 1850s, and others came to start businesses in growing South Asian communities. They faced racial discrimination and constant, legal limitations of their rights. They petitioned the colonial government, the Indian government, and the imperial government in London for redress, using explicit arguments about international law and the duty of the Indian and imperial governments to protect their citizen-subjects. Britain maintained imperial unity only by granting colonial governments expansive leeway to govern their domestic affairs and by recognizing intra-imperial equality among the settler colonies and India. Paradoxically, imperial acceptance of racialized governance within the Dominions partly produced recognition of the discrete Indian state.

Chapter 4 places South Asians directly in an international, geopolitical frame of reference to understand their influence on British foreign relations from the 1860s to around 1919. Like chapter three, it examines ideas in action. It begins by elucidating international legal politics related to European imperialism and to India in the nineteenth century and analyzes the nascent, proto-international institutional character of the British Colonial and Imperial Conferences between 1884 and 1897. The chapter then turns to the period between the mid-1890s and 1907, when South Asians, motivated by the lack of response to their demand, leveraged domestic and global unrest to gain political concessions. The chapter moves on to analyze three early twentieth-century issues: South

Asians' participation in the Imperial Conferences; the effects of South Asian immigration to the United States on Anglo-American diplomacy; the effects of South Asian politico-legal pressure on Anglo-Ottoman relations.

South Asians' mobilization of political pressure regarding these three issues created the conditions for Britain's willingness to engage in intra-imperial and international negotiations about India's participation in the Paris Peace Conference following the First World War and for India's accession to the League and the International Labor Organization. South Asians pressed rights claims both by creating international disputes between Britain and other states and through political commentary and action related to the international relations of Britain. India's membership in the League of Nations, which preceded both dominion status and self-government, signified the legal recognition of India's international status and created the conundrum of India's quasi-independence.

Chapter 1

The “Rules of Good Breeding”: National Character and British Governance

Territorial annexations and the imposition of both direct and indirect British rule throughout the subcontinent led to the erasure of international legal personality and recognition for the independent Indian states subsumed within the empire.¹³⁷ South Asian liberals’ rhetoric recreated an internationally recognizable polity by constructing a discrete Indian state with specific interests, populated by historically civilized peoples, who were capable of cooperation and reciprocity in their relations with British rulers. Perhaps their most formidable obstacle, between the mid-nineteenth and the early twentieth centuries, inhered in the Janus-faced quality of liberalism and its related concepts when abstract ideas about universal political rights collided with the messy reality of governing foreign peoples.¹³⁸ The standard of civilization allowed that putatively incapable or uncivilized peoples, with tutelage and over time, could prepare themselves to fulfill their international civic duties, but in practice, the day of inclusion always receded to the temporal horizon.¹³⁹

¹³⁷ Fisher, *Indirect Rule in India*; Barbara N. Ramusack, *The Indian Princes and Their States* (Cambridge, 2004); Ian Copland, *The British Raj and the Indian Princes: Paramountcy in Western India, 1857-1930* (Bombay, 1982).

¹³⁸ Mehta, *Liberalism and Empire*; for a critique of Mehta’s failure to consider liberalism’s socio-historical context, see, Andrew Sartori, “The British Empire and Its Liberal Mission,” *The Journal of Modern History*, 78 (2006), 623-642; see, for liberalism’s emancipatory and oppressive potential, Pitts, *A Turn to Empire*; and, Claeys, *Imperial Sceptics*.

¹³⁹ Pitts, *Boundaries of the International*; Banerjee, *Becoming Imperial Citizens*; Daniel Gorman, *Imperial Citizenship: Empire and the Question of Belonging* (Manchester, 2006); Francis G. Hutchins, *The Illusion of Permanence: British Imperialism in India* (Princeton, 1967).

Victorian liberals generally espoused a whiggish view of history as a story of progress or improvement, and this perspective shaped their ideas about the proper relationships both between rights-bearing individuals and the state and among individual states.¹⁴⁰ They posited the existence of individual rights but advocated gradual progress towards the expansion of political participation and representation. The imperial “civilizing mission” of the nineteenth century embodied this universalizing sensibility, impelled by the belief that good institutions improved peoples and readied them for civic participation and self-government.¹⁴¹ This universalist ethos was partially displaced, in the mid-nineteenth century, by a particularistic “culturalist stance” that emphasized deep-rooted historical differences among peoples, differences that necessarily conditioned the types of institutions appropriate for any society.¹⁴² This shift made it easier for British liberals to find, in the aspirational nature of liberalism, ways to justify the exclusion of South Asians from domestic, imperial, and international politics.

Liberal imperialists and their critics believed that the type and methods of municipal governance, and its effects on the people ruled, showed the moral character, or quality, of the unitary state. This idea entered into international legal thought as the metaphor of the state as an individual and the society of states as a family. According to

¹⁴⁰ Koditschek, *Liberalism, Imperialism and the Historical Imagination*; Koskenniemi, *The Gentle Civilizer of Nations*.

¹⁴¹ See, Jorgen Osterhammel, *Europe, the “West” and the Civilizing Mission* (London, 2006); Kenneth Pomeranz, “Empire & Civilizing Missions, Past & Present,” *Daedalus*, 134 (2005), 34-45.

¹⁴² Mantena, *Alibis of Empire*, 7-12; see, also, Peter Robb, *Liberalism, Modernity and the Nation: Empire, Identity, and India* (Oxford, 2007); Thomas Metcalf, *Ideologies of the Raj* (Cambridge, 1995).

Lassa Oppenheim, John Westlake (1828-1913), a towering figure among nineteenth-century international law scholars, wanted “International Law to develop more or less on the lines of Municipal Law,” which meant in practice “the codification of firm, decisive, unequivocal rules of International Law... [and] the establishment of International Courts for the purpose of the administration of international justice.”¹⁴³ Westlake compared civilized states to individual “persons interested in maintaining the rules of good breeding.”¹⁴⁴ The rules of good breeding were ethical rules. The people interested in maintaining those rules were those of good character, and for states recognized within the civilized family of nations subject to international law, those of good national character.

This chapter analyzes Dadabhai Naoroji’s (1825-1917) international legal discourse, which supported his demand for an imperial commonwealth, hierarchical but comprising discrete states, in which Indian national interests were represented by the Indian state. Naoroji opposed the authoritarian “civilizing” practices of the mid-to-late nineteenth-century British colonial state in two ways. He constructed a vision of Indian national character in which South Asians were knowledgeable, civilized, fellow subject-citizens of the empire and due the rights of civic participation and representation both at home and abroad. He also questioned the morality of British national character and the

¹⁴³ Lassa Oppenheim (ed.), “Editor’s Introduction,” In *The Collected Papers of John Westlake on Public International Law* (Cambridge, 1914), x; see, also, den Otter, ““A Legislating Empire,”” in Bell (ed.), *Victorian Visions of Global Order*.

¹⁴⁴ John Westlake, *Chapters on the Principles of International Law* (Cambridge, 1894), 6.

“good breeding” of the colonial state for ignoring the common good, understood to include both the interests of the Indian state and the welfare of South Asian peoples.

This chapter proceeds guided by an unnamed author in a Calcutta journal, *Modern Review*, who expressed the mood of the moment in 1907, the fiftieth anniversary year of the revolt of 1857, by complaining that “British publications were incapable of imagining Indian independence at the beginning of the twentieth century, whereas they had readily done so nearly a century before.”¹⁴⁵ The chapter begins during the confident, reformist period in Britain before 1850, the sensibility of which informed Naoroji’s ideas and actions. It turns then to the international legal dispute that formed part of the basis for the revolt of 1857, the unexpected violence of which initiated a British shift to a pessimistic, culturalist approach to Anglo-Indian relations. The remainder of the chapter analyzes Naoroji’s application of comparative historical sociology and international legal analysis, during the 1860s, to oppose the burgeoning civilizational and racial ideologies of British theorists and the autocratic practices of imperial administrators.

Naoroji’s imperial-institutional, civic-statist prescription for Indian government emphasized the obligations of the state, in its interconnected internal and external policies, to recognize the rights of the people to the good government promised both by the foundational documents of British rule and by theorists’ disquisitions on British character. It relied on the distinction between the internal and external aspects of the state

¹⁴⁵ Quote in Bayly, “Rammohan Roy and the Advent of Constitutional Liberalism,” 40.

and ideas about the foreign versus the natural, organic, or indigenous, character of a government.

Dadabhai Naoroji (1825-1917): The “Grand Old Man of India”

Naoroji was born in 1825 in western India outside the city of Bombay. His father was poor Parsi priest, but he won a scholarship to Elphinstone College, where he remained after graduation, eventually becoming Professor of Mathematics and Natural Philosophy, the first South Asian to earn a professorship at a major Indian college. He worked his way into the public-intellectual political community in British society soon after arriving in London as a business partner in Cama and Company in 1855, aided by his position as a professor of Gujarati at University College, London, from 1856 until 1865.¹⁴⁶ He served as the first Indian Member of Parliament, elected in 1892 as a Liberal, and represented the working-class district of Finsbury in central London until 1895. He returned to live full-time in India in 1907.

South Asians had travelled to Britain since shortly after the East India Company’s arrival in the subcontinent.¹⁴⁷ More Indians than ever arrived in the period from the 1830s until the revolt of 1857.¹⁴⁸ The first British-trained Indian doctors received degrees during

¹⁴⁶ Collini, *Public Moralists*.

¹⁴⁷ Rozina Visram, *Asians in Britain: 400 Years of History* (London, 2002); Michael H. Fisher, Shompa Lahiri, and Shinder Thandi (eds.), *A South Asian History of Britain: Four Centuries of Peoples from the Indian Sub-Continent* (Oxford, 2007).

¹⁴⁸ Michael H. Fisher, *Counterflows to Colonialism: Indian Travellers and Settlers in Britain, 1600-1857* (New Delhi, 2004).

this period. Indian communities coalesced in particular locations as the population of migrants finally reached high enough numbers to sustain neighborhoods. Migrants kept arriving after the revolt in 1857. Social class and race interacted to affect any one South Asian individual's reception.¹⁴⁹ Students came in even greater numbers than before, including the first law students. Many were amazed, and many underwhelmed, by what they found in Britain.¹⁵⁰ Naoroji's personal warmth and generosity, along with his intellect, were touchstones for South Asians in London.

He can be imagined as a human analogue to Thomas Metcalf's India, "a nodal point from which peoples, ideas... and institutions... radiated outward."¹⁵¹ He, more than any other person, because of his public-intellectual stature and his influence on younger Indians, defined the contours of South Asian liberalism in the nineteenth and early twentieth centuries. Mahatma Gandhi reminisced about his first meeting with Naoroji, eased by a letter of introduction from a family friend that was given to a young Mohandas Gandhi as he was leaving for London in September 1888 to study law at Middle Temple.¹⁵² The friend had never met Naoroji, but, according to Gandhi, "[w]hat does it matter? Everyone knows him and adores him as India's great son and champion.

¹⁴⁹ A. Martin Wainwright, *The Better Class' of Indians: Social Rank, Imperial Identity, and South Asians in Britain, 1858-1914* (Manchester, 2008); Shompa Lahiri, *Indians in Britain: Anglo-Indian Encounters, Race and Identity, 1880-1930* (London, 2000).

¹⁵⁰ E.g., Romesh Chunder Dutt, *Three Years in Europe, 1868 to 1871, with an Account of Subsequent Visits to Europe in 1886 and 1893*, 4th ed. (Calcutta, 1896); see, also, Sumita Mukherjee, *Nationalism, Education and Migrant Identities: The England-Returned* (Hoboken NJ, 2009).

¹⁵¹ Metcalf, *Imperial Connections*, 1.

¹⁵² Mahatma Gandhi, "Foreword," In Masani, *Dadabhai Naoroji*, 7-8.

... Your being an Indian is sufficient introduction.” Gandhi “soon found that Indian students had free access to the G.O.M. [Grand Old Man] at all hours of the day... no matter to which province or religion they belonged.” Naoroji became a “constant adviser and inspiration” during Gandhi’s years in southern Africa fighting the discriminatory treatment of South Asians, when “[h]ardly a week passed without a letter from me to him describing the conditions of Indians,” to which Naoroji replied, “without fail in his own handwriting.”¹⁵³

Naoroji and many of his fellow moderates are generally described as early Indian economic nationalists.¹⁵⁴ He remains best known for his 1901 work, *Poverty and Un-British Rule in India*, accurately described as nationalist political-economic treatise.¹⁵⁵ This perspective and the focus on this later work overshadows the statist orientation of Naoroji’s early liberalism. His arguments about the obligations of the British-Indian state and his territorialization of an Indian polity preceded his economic nationalism. Both were part of a global process that began in the 1860s and inspired national political agendas throughout the following century. Theorists devised a more nuanced vocabulary for distinguishing among political concepts like the state, sovereign, commonwealth, and

¹⁵³ Gandhi, “Foreword,” 7; see, also, M. K. Gandhi, *The Law and the Lawyers* (Ahmedabad, 1962), 13-14, 78, 201; Stephen Hay, “The Making of a Late-Victorian Hindu: M. K. Gandhi in London, 1888-1891,” *Victorian Studies*, 33 (1989), 75-98,

¹⁵⁴ E.g., Manu Goswami, *Producing India: From Colonial Economy to National Space* (Chicago, 2004); Banerjee, *Becoming Imperial Citizens*.

¹⁵⁵ Dadabhai Naoroji, *Poverty and Un-British Rule in India* (London, 1901).

government, and practitioners began applying these concepts to locate particular peoples in specific places.¹⁵⁶

Two points regarding the scholarship on Indian nationalism are worth remarking. First, the political separatism of “later” nationalism arose in the early 1900s, so the nationalist appellation sometimes confuses later intellectuals’ and activists’ interpretations of the so-called moderates’ ideas with the proximate goals of the moderates, which aimed to shape the behavior of the state.¹⁵⁷ Second, nationalism often serves as shorthand for nation-statism, especially in discussions of international law, but the conflation of nation and state begs the question. The resolution of many nations into “the nation” is a process that can be separated from demands that the state represent the interests of the populace. Many South Asians, after the revolt, were accepting of and optimistic about British rule.¹⁵⁸ These intellectuals, like their British counterparts, fell prey to the illusion of British-imperial permanence, so they dedicated much of their energy to advocating measures to improve British-Indian and imperial governance.

Naoroji certainly approached the challenge of empire in this way, at least until around the turn of the century. This is unsurprising given his reformist intellectual inheritance. Despite Naoroji’s preeminence among South Asian liberals, his ideas,

¹⁵⁶ Duncan Bell, “The Victorian Idea of a Global State,” In Bell (ed.), *Victorian Visions of Global Order*, 159-185, especially 162-165; Charles Maier, “Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era,” *The American Historical Review*, 105 (2007), 807-831.

¹⁵⁷ Sanjay Seth, “Rewriting Histories of Nationalism: The Politics of “Moderate Nationalism” in India, 1870-1905,” *The American Historical Review*, 104 (1999), 95-116.

¹⁵⁸ Tapan Raychaudhuri, *Europe Reconsidered: Perceptions of the West in Nineteenth Century Bengal* (Delhi, 1988).

including the belief that imperial rule would lead, eventually, to South Asian self-government, rose on a foundation built by earlier intellectuals, statesmen, and reformers.¹⁵⁹

The Imperial Civilizing Mission and Naoroji's Formative Years

Jeremy Bentham (1748-1832), a political theorist and Utilitarian philosopher, argued in the late eighteenth century that Britain should free her colonies entirely because the distance interposed between rulers and the ruled in colonial systems meant that colonial rulers could not rule well.¹⁶⁰ Bentham responded to the development of the unitary national state in Europe in part by coining the term international law. He argued that the commonly used phrase, “law of nations,” seemed to refer to internal, or domestic, law, and he wrote that only “mutual transactions between sovereigns” could be “properly and exclusively termed *international*.”¹⁶¹ Bentham's ideas have been described as inherently authoritarian and imperialistic.¹⁶² Bentham scholar Jennifer Pitts views this as a selective reading of Bentham in which the later views of Bentham's followers, most

¹⁵⁹ Lynn Zastoupil, *Rammohun Roy and the Making of Victorian Britain* (New York, 2010); Bayly, *Recovering Liberties*; J. V. Naik, “Forerunners of Dadabhai Naoroji's Drain Theory,” *Economic and Political Weekly*, 36 (2001), 4428-4432.

¹⁶⁰ Jennifer Pitts, “Legislator of the World? A Rereading of Bentham on Colonies,” *Political Theory*, 31 (2003), 200-234.

¹⁶¹ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation. Printed in the Year 1780, and Now First Published* (London, 2000 [1781]), 236 (italics in the original).

¹⁶² Eric Stokes, *The English Utilitarians in India*, Oxford, Oxford University Press, 1959.

famously John Stuart Mill (1806-1873), were displaced onto Bentham.¹⁶³ Unlike James Mill (1773-1836), Bentham had not imbibed the Scottish Enlightenment thinking about historical progress that led the elder Mill to rank peoples on a scale from barbaric to civilized. Mill argued, for example, that South Asians were uncivilized, incapable of ruling themselves, and due only a “simple form of arbitrary government.”¹⁶⁴

The bigotry underlying the Company’s behavior was controversial. Religious and civilizational intolerance was common at the time but not universal.¹⁶⁵ William Jones (1746-1794), who worked as a Supreme Court judge for the East India Company, was an Oxford-educated classicist who lived in Calcutta for almost 11 years, from 1783 until his death.¹⁶⁶ He studied linguistics, law, botany, Sanskrit, and Persian; he argued that scholarship, especially in the areas of language and law would improve British interactions in India, creating a better and more just system of governance. Addressing the first meeting of the Asiatic Society of Bengal, he recounted his arrival in the Bay of Bengal:

It gave me inexpressible pleasure to find myself in the midst of so noble an amphitheater, almost encircled by the vast regions of Asia, which has been ever the esteemed nurse of the sciences, the inventress of delightful and useful arts... fertile in the productions of human genius, abounding in natural

¹⁶³ Pitts, “Legislator of the World?,” see, also, David Armitage, “Globalizing Jeremy Bentham,” *History of Political Thought*, 32 (2011), 63-82.

¹⁶⁴ Quote in Pitts, “Legislator of the World?,” 203; also in, Eileen P. Sullivan, “Liberalism and Imperialism: J. S. Mill’s Defense of the British Empire,” *Journal of the History of Ideas*, 44 (1983), 599-617, at 605.

¹⁶⁵ Sankar Muthu, *Enlightenment Against Empire* (Princeton NJ, 2003); Clement Hawes, *The British Eighteenth Century and Global Critique* (New York, 2005).

¹⁶⁶ See P. J. Marshall, *The British Discovery of Hinduism in the Eighteenth Century* (Cambridge, 1970) for selected works of eighteenth-century scholarship on India.

wonders, and infinitely diversified in the forms of religion and government, in the laws, manners, customs and languages, as well as in the features and complexions of men.¹⁶⁷

Jones was committed to good British governance in India, but others like Edmund Burke (1729-1797), a politician and political theorist, believed that the injustice inherent in colonial rule over foreign peoples would corrupt British society.¹⁶⁸

The debate about whether to hold colonies became, by the 1830s, a debate about how to govern colonies well. Economic depression in Britain in 1830, followed by rising crime, increased pauperism among the general population, and financial insecurity among the propertied class “created a moral panic [and] a demand for the purification of social values by political action.”¹⁶⁹ The concept of emancipation provided a common thread in early nineteenth-century British and Indian reform debates. Reformist ideas cut across and intertwined seemingly disparate domestic, imperial, and international issues.¹⁷⁰ Two, competing visions of Britain vied for supremacy. Reformers used an idea of historic Britain—Protestant, commercial, and free—to challenge what they believed was a

¹⁶⁷ Quote in W. Crawley, “Sir William Jones: A Vision of Orientalism”, *Asian Affairs*, 27(1996), 165.

¹⁶⁸ Jennifer Pitts, “Empire and Legal Universalisms in the Eighteenth Century,” *The American Historical Review*, 117 (2012), 92-121.

¹⁶⁹ Jonathan Parry, *The Rise and Fall of Liberal Government in Victorian Britain* (New Haven, 1993), 59.

¹⁷⁰ Christopher Bayly, “European Political Thought and the Wider World during the Nineteenth Century,” In Gareth Stedman Jones and Gregory Claeys (eds.), *The Cambridge History of Nineteenth-Century Political Thought* (Cambridge, 2013), 835-863; Jon E. Wilson, *The Domination of Strangers: Modern Governance in Eastern India, 1780-1835* (New York, 2008); Miles Taylor, “Empire and Parliamentary Reform: The 1832 Reform Act Revisited,” In Arthur Burns (ed.), *Rethinking the Age of Reform: Britain, 1780-1850* (Cambridge, 2003).

corrupt, military-fiscal state, reliant on imperial economic protectionism and the colonial expropriation of land, labor, and wealth.¹⁷¹

Reformers often discussed the character of the East India Company, with the Company portrayed as the apotheosis of the monopolistic, predatory state. South Asians played an active role in varied reform movements in which economics was a moral issue and fighting corruption became a moral imperative.¹⁷² The following section describes the antecedents of Naoroji's political theorizing with a brief examination of Thomas Babington Macaulay (1800-1859), a frequent commentator about India, who would later serve as Law Member on the Governor-General's Council in Calcutta (1834-1838), and Raja Rammohan Roy (1772-1833), a South Asian social and religious reformer. Together they exemplify the ways that India and South Asians figured in the reformist moment of the 1830s. Indeed, one scholar has characterized Naoroji's political advocacy as a form of "radicalized Macaulayism."¹⁷³

Macaulay spoke in support of the proposed Bill in the House of Commons on March 2, 1831. He attributed the current reformist sensibility to a middle-class antipathy for the characterological and institutional shortcomings of Britain's monarchical aristocracy. He situated this discontent at the contemporary end of a long historical arc, using examples from ancient times to the present to argue that "[a]ll history [was] full of

¹⁷¹ Anthony Howe, *Free Trade and Liberal England, 1846-1946* (Oxford, 1997).

¹⁷² Zastoupil, *Rammohun Roy*; Fisher, Lahiri, and Thandi (eds.), *A South Asian History of Britain*, 47-94.

¹⁷³ Koditschek, *Liberalism, Imperialism and the Historical Imagination*, 294.

revolutions, produced by causes similar to those which are now operating in England.”¹⁷⁴

In October 1831, again in the House of Commons, he chided the Members of the House of Lords for their sluggish response to middle-class demands, referring to the Lords’ earlier lethargy when deciding whether to support the end of the slave trade and right of Catholics to sit in Parliament. Macaulay asserted that the British upper classes had failed to acknowledge or to adapt to progressive historical change and questioned why the Commons ought “to surrender our judgement to those who have acknowledged that, on former occasions of the same kind, we have judged more correctly than they.”¹⁷⁵

His analysis of the relationship between the universal and the particular led him to see political participation and representative government as “*contingent* entitlements in which the precise lines of inclusion and exclusion would always have to be drawn in a *provisional* way.”¹⁷⁶ However, he believed that history moved in the direction of moral and material progress, and good government would ensure that the included population was ever growing. The goal of imperial governance had to be the realization of its “civilizing potential,” which could only bear fruit if rulers attended to the interests of the ruled. He opposed slavery for similar reasons, because “it [was] not under oppression that we learn[ed] how to use freedom.”¹⁷⁷ Servitude and subjugation impeded progress

¹⁷⁴ Thomas Babington Macaulay, *The Miscellaneous Writings and Speeches of Lord Macaulay*, A New Edition (London, 1871 [1860]), 487.

¹⁷⁵ Macaulay, *The Miscellaneous Writings*, 512.

¹⁷⁶ Koditschek, *Liberalism, Imperialism and the Historical Imagination*, 115. Italics in the original.

¹⁷⁷ Macaulay, “Mirabeau,” *The Miscellaneous Writings*, 267-284, at 272; reprinted from the *Edinburgh Review*, July 1832.

towards the expansion of political and civic communities, not only for the middle classes in Britain but also for imperial subjects in India. Equally important, the inferiority of the slave, or of those living under despotic rule, was a “matter of shame and remorse” for the society that tolerated slavery or despotism.¹⁷⁸

Macaulay’s historicism displayed a balancing sensibility best understood as progressive gradualism. History moved in the direction of universal progress, but reform occurred as a response to tradition and context. It shaded his approach to the debates about charter renewal for the East India Company in 1833, which overlapped the final readings in Parliament of the Slavery Abolition Act. He fully supported ending the Company’s trade monopoly and eliminating discrimination against qualified South Asians seeking a place in the Indian government. The political and economic despotism of the Company had to end because South Asians’ state of servitude was both an obstacle to their eventual political emancipation and a blot on the British national character.

The civilizing mission ideology often encouraged illiberal means to achieve liberal ends. Macaulay’s position in the later “Orientalist-Anglicist” debates in India, disagreements about whether to rely on indigenous methods of education and rule or to impose English-Language education and British administrative practices, provides a case in point. He advocated eliminating indigenous-language education because “a single shelf of a good European library was worth the whole native literature of India and Arabia.”

English-language teaching offered the best chance to create “a class of persons, Indian in

¹⁷⁸ Macaulay, “Jewish Disabilities, A Speech Delivered in a Committee of the Whole House of Commons on 17 April 1833,” *The Miscellaneous Writings*, 544-550, at 550.

blood and colour, but English in taste, in opinions, in morals, and in intellect,” persons who would occupy a critical role as “interpreters between us and the millions whom we govern.”¹⁷⁹ His implication of equality regarding intellectual capacity was fairly radical, as was his belief that Britain owed a duty to South Asians to provide the means by which they could achieve actual equality with Britons.¹⁸⁰

Rammohan Roy shared Macaulay’s progressive-gradualist sensibility. He was a “cautious” and critical, but flexible and “constructive,” supporter of the British civilizing mission.¹⁸¹ He was born into a wealthy Hindu family in Bengal, and his “ancestors were Brahmins of a high order.”¹⁸² He studied Persian and Arabic, “these being indispensable to those who attached themselves to the courts of the Mahommedan princes,” as well as Sanskrit and “theological works... which contain[ed] the body of Hindoo literature, law and religion.”¹⁸³ His outlook was shaped both by the expansion of the East India Company in Bengal and by knowledge of contemporary global events, including “the fight for constitutional government in Spain, the struggle of the Italians for emancipation from the Austrian yoke, the agitation for good government of Ireland, [and] the conflict

¹⁷⁹ Thomas Babington Macaulay, “Minute on Indian Education,” In Martin Moir and Lynn Zastoupil (eds.), *The Great Indian Education Debate: Documents Relating to the Orientalist-Anglicist Controversy, 1781-1843* (Richmond, 1999), 161-173.

¹⁸⁰ Koditschek, *Liberalism, Imperialism and the Historical Imagination*, 121-123.

¹⁸¹ Bayly, “Rammohan Roy and the Advent of Constitutional Liberalism,” 26.

¹⁸² Rammohan Roy, “Autobiographical Letter of Rammohan Roy,” In Mary Carpenter (ed.), *The Last Days in England of Rajah Rammohan Roy* (London and Calcutta, 1866), 250.

¹⁸³ Rammohan Roy, “Autobiographical Letter,” In Carpenter (ed.), *The Last Days*, 250.

over the abolition of slavery in America.”¹⁸⁴ He feared, equally, the capriciousness of the French Revolution and the potential return of monarchical absolutism enabled by the Congress of Vienna in 1815.¹⁸⁵ His perspective evolved from his interactions with Europeans, but his ideas flowed from his attempts to balance and to integrate strains of western and Indian thought and practice, and his constitutional ideas and institutional activities were designed to fend off the interventionist, ordering tendencies of colonial utilitarianism.¹⁸⁶

He sought a constitutional middle ground in his propositions for imperial and Indian reform that allowed for limited and local popular participation in government within an empire unified under the Crown. He argued for South Asians’ rights to serve on juries and to a free press and believed that the colonies should receive dedicated seats in Parliament to ensure that local imperial interests received a fair hearing, even though he did not imagine that South Asians would represent India in Parliament or be capable of self-government for another two or three generations.¹⁸⁷ In 1828, he drew on his connections with Unitarian Christians and founded the Brahmo Samaj, a social reform organization with a rationalized, monotheistic, socially emancipatory vision at its core.¹⁸⁸

¹⁸⁴ Hem Chandra Sarkar (ed.), *The Life and Letters of Raja Rammohun Roy, Compiled and Edited by the Late Sophia Dobson Collet, and Completed by a Friend*, second ed. (Calcutta, 1914), lxxiii; see, also, Elizabeth Kelly Gray, ““Whisper to Him the Word ‘India’”: Trans-Atlantic Critics and American Slavery, 1830-1860,” *Journal of the Early Republic*, 28 (2008), 379-406.

¹⁸⁵ Bayly, “Rammohan Roy and the Advent of Constitutional Liberalism,” 26.

¹⁸⁶ See, Wilson, *The Domination of Strangers*; Benton and Ford, *Rage for Order*.

¹⁸⁷ Lynn Zastoupil, *Rammohun Roy and the Making of Victorian Britain* (New York, 2010); Bayly, *Recovering Liberties*.

¹⁸⁸ David Kopf, *The Brahmo Samaj and the Shaping of the Modern Indian Mind* (Princeton, 1979).

He anticipated the public moralism of later South Asian liberals, like Dadabhai Naoroji, both in his progressive-gradualist approach to reform and in the content of his ideas.

Prasanna Kumar Tagore, in 1833, referred to Rammohan Roy as “India’s unofficial member of Parliament,” albeit South Asians would have to wait for this milestone until 1892, when Naoroji became the first Asian Parliamentarian.¹⁸⁹

Rammohan arrived in Liverpool in April 1831 on a mission for the Mughal emperor, Akbar II, to petition for the redress of grievances against the East India Company.¹⁹⁰ This formal diplomatic task aside, the people of Britain perceived Rammohan as a “real, if informal, Ambassador from the people of India.”¹⁹¹ His visit had been eagerly anticipated, and “[f]rom the moment he arrived, [he] was besieged by visitors and invitations, his social calendar was filled, and his whereabouts were published.” Even Thomas Macaulay “waited in vain at one gathering until midnight, when he “went away in despair”.¹⁹² Jeremy Bentham, 83 years old at the time, settled for leaving a letter at Rammohan’s hotel.¹⁹³ Rammohan lived the remainder of his life in Britain, dying unexpectedly in Bristol in September 1833, one month after the Slavery Abolition Act and the Government of India Act received Royal assent and became law.

¹⁸⁹ Quote in Zastoupil, *Rammohun Roy*, 127.

¹⁹⁰ Zastoupil, *Rammohun Roy*, 148-149.

¹⁹¹ Sarkar (ed.), *The Life and Letters of Raja Rammohun Roy*, 183.

¹⁹² Zastoupil, *Rammohun Roy*, 1-2.

¹⁹³ Sarkar (ed.), *The Life and Letters of Raja Rammohun Roy*, 183.

His advocacy for the elimination of *sati*, the immolation of Hindu widows, attracted large numbers of supporters in Britain, especially women, and he joined these supporters to fight for the Reform Bill and the abolition of slavery.¹⁹⁴ He linked the abolition of *sati* both to progress advancing the Reform Bill and to global improvement, writing to a fellow activist in Brighton in April 1832, “[t]he struggles are not merely between the reformers and the anti-reformers, but between liberty and tyranny throughout the world; between justice and injustice, and between right and wrong.” He advocated persistence because in “the past event of history, we clearly perceive that liberal principles in politics and religion have been long gradually, but steadily, gaining ground, notwithstanding the opposition and obstinacy of despots and bigots.”¹⁹⁵

What becomes clear, looking at both Macaulay and Rammohan Roy, is that the reformist sensibility of the 1830s involved interlocking political, humanitarian, and economic concerns that cut across domestic, imperial, and international spaces. Economic reform appeared often in debates regarding monopoly and free trade. Protectionists argued that imperial preference would encourage imperial unity, but the free traders, the intellectual descendants of Adam Smith and often anti-colonial in outlook, espoused a belief in the emancipatory, pacific effects of open trade.¹⁹⁶ Macaulay and Rammohan saw the East India Company’s commercial monopoly, with its high taxes

¹⁹⁴ Zastoupil, *Rammohun Roy*, especially ch. 2, “Slavery and Sati,” 57-71; see, also, Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley, 1998).

¹⁹⁵ Rammohan Roy to Mrs. Woodford, April 27, 1832, In Carpenter (ed.), *The Last Days*, 109-110.

¹⁹⁶ Howe, “Free Trade and Global Order,” In Bell (ed.), *Victorian Visions of Global Order*, 27-29.

and unnecessary frontier wars, as the natural result of mercantilism's protectionist corruption. Their advocacy against the Company's monopoly condemned the exclusion South Asians from their own governance. Both men advocated for the anti-discrimination provisions in the 1833 charter, which promised that "[n]o native of the said territories... shall, by reason only of his religion, place of birth, descent, colour or any of them, be disabled from holding any place, office, or employment under the said Company."¹⁹⁷

Free trade arguments also focused attention on free labor, which enhanced economic efficiency and the flow of capital, eliminated the likelihood of labor revolts, and created the conditions for gradual progress associated with the civilizing mission. The British and Foreign Anti-Slavery Society grappled with all of these ideas at its General Convention in June 1840 and emphasized the responsibilities of the family of Man to ensure global liberty and well-being.¹⁹⁸ J. H. Tredgold expressed the guiding sentiment of the General Convention, stating, "all things whatsoever ye would that men should do to you, do ye even so to them."¹⁹⁹ The convention ended with a vote to approve an "Address to Heads of Government," calling on "the civilized world, and more especially those nations which bear the Christian name," to recognize that "God [had]

¹⁹⁷ "The Court of Directors on the Intent and Meaning of the Chapter Provision against Racial Discrimination, 10 December 1834," In S. V. Desika Char (ed.), *Readings in the Constitutional History of India, 1757-1947* (Delhi, 1983), 727, fn. No. 105 (2).

¹⁹⁸ Catherine Hall, "The Lords of Humankind Re-Visited," *Bulletin of the School of Oriental and African Studies, University of London*, 66 (2003), 472-485.

¹⁹⁹ *Proceedings of the General Anti-Slavery Convention, Called by the Committee of the British and Foreign Anti-Slavery Society, and Held in London from Friday, June 12th, to Tuesday, June 23rd, 1840* (London, 1841), 8.

created of one blood all nations of men... [who] in [a] relation of brotherhood... [were] all entitled to the equal enjoyment of personal and civil liberty.”²⁰⁰

International lawyers also engaged with ideas about character, progress, the obligations of states, and international legal reform. William Whewell (1794-1866), a prominent moral philosopher and a professor at Cambridge University, wrote, in 1845, “the State undoubtedly possesses a Moral Character; and has Duties, as we have intimated, of the same description as those of individuals:—Duties of Humanity, Justice, Truth, Purity, Order; the Duties of Moral and Intellectual Progress.”²⁰¹ Whewell’s ideas drew on an older tradition of universal, moral, and natural legal reasoning that understood international law as the “common law of all peoples.” He later bequeathed money to Cambridge University to support the study of international law to “diminish the evils of war” with the goal of “extinguish[ing] war between nations.”²⁰²

Countervailing, exclusivist conceptions of international law certainly existed at this time, and theorists continued to develop these ideas as extensions of earlier international legal justifications for conquest.²⁰³ John Austin (1790-1859), an English legal philosopher and a friend and neighbor of Jeremy Bentham, built on Bentham’s formulation of international, more accurately inter-state, law “between sovereigns” to

²⁰⁰ *Proceedings of the General Anti-Slavery Convention*, 520-521.

²⁰¹ William Whewell, *The Elements of Morality, Including Polity*, 2 volumes (London, 1845), ii, article 867.

²⁰² Maine, *International Law*, 1; Lassa Oppenheim, *The League of Nations and Its Problems: Three Lectures* (London, 1919), 4.

²⁰³ See, Jennifer Pitts, “Empire and Legal Universalisms in the Eighteenth Century,” *American Historical Review*, 117 (2012), 92-121; Pitts, *A Turn to Empire*; Benton and Ford, *Rage for Order*.

eliminate the “mystical foundations” of natural law in favor “of the centrality of authority and sovereignty in enactments of law.”²⁰⁴ Positive law originated in the command of a sovereign. It was both prescriptive and empirical, visible in the acts and agreements of sovereigns. Hierarchy, in the form of sovereign command and the concomitant existence of political superiors and inferiors, occurred naturally in Austin’s formulation.²⁰⁵

Henry Wheaton (1785-1848), an American jurist and diplomat, wrote the history of international diplomacy and law that was adopted in European diplomatic circles after 1850 and governed European international relations throughout the nineteenth century.²⁰⁶ He represented the United States as the ambassador to Denmark (1827-1835) and to Prussia (1835-1844) and was both well known and respected in European diplomatic circles.²⁰⁷ Wheaton’s work became the standard reference book on international law in China, Japan, and Turkey.²⁰⁸ Wheaton, a prominent Unitarian, but for illness would have introduced Rammohan Roy at a meeting of the Unitarian Association in London in May

²⁰⁴ Casper Sylvest, “The Foundations of Victorian International Law,” In Bell, *Victorian Visions of Global Order*, 47-66, at 49; see, also, Armitage, “Globalizing Jeremy Bentham,” Philip Schofield, “The Legal and Political Legacy of Jeremy Bentham,” *Annual Review of Law and Social Science*, 9 (2013), 51-70.

²⁰⁵ Sylvest, “International Law in Nineteenth-Century Britain,” see, also, Pitts, “Boundaries of Victorian International Law,” in Bell (ed.), *Victorian Visions of Global Order*; den Otter, “A Legislating Empire” in Bell (ed.), *Victorian Visions of Global Order*.

²⁰⁶ Stephen C. Neff, *Justice Among Nations: A History of International Law* (Cambridge MA, 2014), 228.

²⁰⁷ Robert Spears, *Memorable Unitarians, being a Series of Brief Biographical Sketches* (London, 1906), 279-282.

²⁰⁸ R. P. Anand, “Family of “Civilized” States and Japan: A Story of Humiliation, Assimilation, Defiance and Confrontation,” *Journal of the History of International Law*, 5 (2003), 1-75; Richard S. Horowitz, “International Law and State Transformation in China, Siam, and the Ottoman Empire in the Nineteenth Century,” *Journal of World History*, 15 (2004), 445-486.

1831.²⁰⁹ His hierarchical and exclusivist international jurisprudence owed much to Austin's positivism, and also to his personal religious beliefs. Wheaton first articulated the constitutive theory of state recognition that bifurcated sovereignty into internal (constitutional law) and external (international law) aspects. External sovereignty did not exist by natural right but as a right bestowed by other states.²¹⁰

The society of states, by its collective assessment or judgement, constituted the recognizable, international community. Despite his seemingly expansive religious predispositions, Wheaton circumscribed the society of states to include only those that were civilized, Christian and European. This view opened the door for John Stuart Mill to write, "[t]o suppose that the same international customs, and the same rules of international morality, can obtain between one civilized nation and another, and between civilized nations and barbarians, is a grave error, and one which no statesman can fall into... [because] [t]o characterize any conduct whatever towards a barbarous people as a violation of the law of nations, only shows that he who so speaks has never considered the subject."²¹¹ Mill wrote these words only two years after the violent revolt against East India Company rule in India and one year after the British government's dispossession of

²⁰⁹ Sarkar (ed.), *The Life and Letters of Raja Rammohun Roy*, 185-190, fn. * at 188; see, also, John D. Haskell, "Divine Immanence: The Evangelical Foundations of Modern Anglo-American Approaches to International Law," *Chinese Journal of International Law*, 11 (2012), 429-267

²¹⁰ Henry Wheaton, *Elements of International Law*, 3rd edition, revised and corrected (Philadelphia, 1846), 55.

²¹¹ John Stuart Mill, "A Few Words on Non-Intervention", In John M. Robson and Stefan Collini (Eds.), *The Collected Works of John Stuart Mill*, vol. XXI, 1984 [1859], p. 118.

the Company cost Mill his job with the EIC. He was well aware of the international political and legal disputes that formed part of the reason and the response to the revolt.

International Law and the Revolt of 1857

The Crimean War brought the European, imperial geopolitics of the Eastern Question to the doorstep of India. Britons, later, would ascribe to the war a role in precipitating the revolt of 1857 in India.²¹² The Indian government played its part in the Crimean conflict by seconding European, Indian-army troops to supplement British-army troops.²¹³ James Broun-Ramsay, Lord Dalhousie (1812-1860), the East India Company's penultimate Governor-General (1848-1856), remarked that Britain fought the war "to thwart the *policy* of the Czar, which [was] destructive of peace and security in Europe."²¹⁴ Dalhousie steadfastly denied that Britain fought "to sustain the *religion* of the Prophet" but acknowledged that some South Asian Muslims had "rushed to join the standard of the Sultan" in the "Turkish crusade against the Infidels," having heard about the war during their return to India from the *hajj*.²¹⁵

²¹² "The Abyssinian War," *The London Review of Politics*; F. W. Buckler, "The Political Theory of the Indian Mutiny," *Transactions of the Royal Historical Society*, 5 (1922), 71-100; Henry Rawlinson expressed the same view.

²¹³ See, Parliamentary Paper 1874 (329), "Report from the Select Committee on East India Finance," July 28, 1874.

²¹⁴ Marquess of Dalhousie to George Couper, letter sent from Government House, May 28th, 1854, In J. G. A. Baird (ed.), *Private Letters of the Marquess of Dalhousie* (London, 1910), 301.

²¹⁵ Dalhousie to Couper, May 28th, 1854, In Baird (ed.), *Private Letters*, 301; William Howard Russell, *The British Expedition to the Crimea*, new and revised ed. (London, 1877), 55.

William Howard Russell (1820-1907), a war correspondent with *The Times of London*, recounted meeting South Asian Muslims in the Crimea. They were returning from a diplomatic mission to London in support of the Royal Family of Awadh and curious about the reports of British military setbacks.²¹⁶ Robert Phillimore (1810-1885), a British international jurist, argued that the Treaty of Paris, which ended the Crimean war in 1856, admitted the Ottoman empire into the Concert of Europe and the family of nations recognized as members of the international community and subject to international law.²¹⁷ The settlement of the war and the apparent acceptance of the Muslim Ottoman empire into the international-legal family of nations struck a hopeful chord in India regarding the international possibilities for South Asians and for Muslims, which exacerbated the disappointment and anger that followed the annexation of South Asian princely state of Awadh, also in 1856.

Lord Dalhousie had mentioned his guiding principles regarding plans to annex the Muslim princely state of Awadh in a letter to his friend, George Couper, in December 1855.²¹⁸ He was, as he saw it, constrained by international law and public opinion, and the course of action preferred by the Company's Court of Directors at the time was "not warranted by international law. It would [have been] either conquest or usurpation of

²¹⁶ Fisher, "Indian Political Representations in Britain."

²¹⁷ Robert Phillimore, *Commentaries upon International Law*, vol. III (Philadelphia, 1857), iii-iv; John Westlake, *Chapters on the Principles of International Law* (Cambridge, 1894), 56.

²¹⁸ Awadh, Oude, and Oudh are transliterations from Persian, the latter two common in British writing at the time.

powers of Government by force of arms.”²¹⁹ Dalhousie believed he had overcome these objections by the time of Awadh’s annexation, which extinguished Awadh’s international legal personality.

Many nineteenth-century observers identified the East India Company’s annexations of indigenous rulers’ territories as a major cause of the violent revolt in India that started in May 1857.²²⁰ Anti-Company violence was not extraordinary but usually had been localized, the participants comprising small groups with specific political, economic, or religious grievances. The geographical and popular scale of the revolt and the accompanying brutality were shocking to South Asians and Britons. Discerning the immediate causes of the revolt and debating and deciding the future place of India in the empire preoccupied Company officials, British politicians, and members of the public in both Britain and India. Contemporary reactions were varied.²²¹ Recent scholarship “still seems, in part at least, to be responding to the prejudices of colonial accounts of the 19th century,” which assumed the subordination of South Asian polities.²²²

Placing the revolt in a broader geographical and temporal context reveals the role of international political thought, law, and institutions in the expansion of British rule and

²¹⁹ Marquess of Dalhousie to George Couper, letter sent from Government House, December 15th, 1855, J. G. A. Baird (ed.), *Private Letters of the Marquess of Dalhousie* (London, 1910), 363.

²²⁰ Syed Ahmad Khan, *Causes of the Indian Revolt; Three Essays*, ed. Salim al-Din Quraishi (1858, reprint, Lahore, 1997); The Rev. Edmund Kell, *What Patriotism, Justice, and Christianity Demand for India: A Sermon, Preached on Sunday, October 11, 1857, at the Chapel, Canal Walk, Southampton* (London, 1857).

²²¹ Michael H. Fisher, “Multiple Meanings of 1857 for Indians in Britain,” *Economic and Political Weekly*, 42 (2007), 1703-1709.

²²² Kim A. Wagner, “The Marginal Mutiny: The New Historiography of the Indian Uprising of 1857,” *History Compass*, 9/10 (2011), 760-766, at 762.

lays the foundation for considering South Asians' international legal discourse and politics. Dalhousie arrived in India during the European revolutions of 1848 and served until 1856. He pursued an ongoing policy of territorial annexation more aggressively than any other Governor-General in the Company's history, undertaking in eight years "a quarter of the entire annexations by the Company from its inception" at the beginning of the nineteenth century.²²³ His increase in annexationist practice makes sense in light of domestic practices of governance both in post-revolution European states after 1848 and, subsequently, in 1850s Britain.

He relied on claims of good governance through scientific reform, political disinterestedness, and moral character and, like European monarchs, launched large public works projects, expanded the use of data collection and statistics to modernize administration, and attempted to integrate India into the global economy.²²⁴ Dalhousie's and the Company's administrative practices were part of a mid-century network of knowledge related to good governance.²²⁵ The goal of good governance, combined with the common theoretical acceptance of the relative moral superiority of Christian Europeans reflected in international legal thought and in state practice, justified an annexationist policy.

²²³ Michael H. Fisher (ed.), *The Politics of the British Annexation of India, 1757-1857* (Delhi, 1993), 22.

²²⁴ Parliamentary Papers, 1856 (245), "East India. Copy of a minute by the Marquis of Dalhousie, dated the 28th day of February 1856, reviewing his administration in India, from January 1848 to March 1856;" Suresh Chandra Ghosh, "The Utilitarianism of Dalhousie and the Material Improvement of India," *Modern Asian Studies*, 12 (1978), 97-110;

²²⁵ Christopher Clark, "After 1848: The European Revolution in Government," *Transactions of the Royal Historical Society*, 22 (2012), 171-197.

The EIC's annexation relied on international legal justifications by alleging misrule and treaty violations. John Stuart Mill justified the annexations by distinguishing between civilized peoples and barbarians and disavowing any sort of moral or civilizational universalism that would have required fidelity to the Company's treaties or reciprocity in its engagements with the Muslim king.²²⁶ Support for Mill's view was not universal. Travers Twiss, a prominent international lawyer, opined on behalf of the King of Awadh that Dalhousie had erred in treaty interpretation, omitting entirely from his analysis a renegotiated version of the original treaty from the 1830s.²²⁷

F. W. Newman argued that Indian rulers were independent entities and that Dalhousie's annexations were, therefore, illegal.²²⁸ Mill, likely willfully in light of his career with the EIC, ignored a long history of international law, diplomatic exchange, and treaty arrangements in India to distinguish so clearly between "civilized nations and barbarians."²²⁹ Even for Mill, eventually, political and legal theory could only stretch so far. Mill, in 1866 as a Member of Parliament, characterized the racial arguments for the dispossession of the Māori in New Zealand as evidence of "the overbearing and insolent

²²⁶ John Stuart Mill, "A Few Words on Non-Intervention", In John M. Robson and Stefan Collini (Eds.), *The Collected Works of John Stuart Mill*, vol. XXI, 1984 [1859].

²²⁷ "Opinion of Dr. Travers Twiss," February 24, 1857, printed in Samuel Lucas, *Dacoitee in Excelsis; Or, The Spoliation of Oude, Faithfully Recounted. With Notes and Documentary Illustrations. In Defense of the King of Oude, In Reference to the Annexation of His Kingdom by the East India Company*, third ed. (London, 1857), 192-199.

²²⁸ F. W. Newman, "Our Relation to the Princes of India," *Westminster Review*, 69 (April 1858), 453-477; Duncan Bell, "Empire and International Relations in Victorian Political Thought," *The Historical Journal*, 49 (2006), 281-298.

²²⁹ Pitts, ; Alexandrowicz, *An Introduction to the History of the Law of Nations*.

disregard of the rights and feelings of inferiors which is the common characteristic of John Bull when he thinks he cannot be resisted.”²³⁰

Dalhousie had indicated a desire to annex Awadh as early as 1848, when “Oude... [was] on the highroad to be taken under [the Company’s] management—[but] not into [the Company’s] possession... before two years [were] over.”²³¹ Awadh avoided that fate, and Dalhousie’s attitude hardened. He asserted:

The wretch at Lucknow, who sent his crown to the Exhibition [of 1851], would have done his people and us a good service if he had sent his head in it, and he never would have missed it. That is a cherry which will drop into our mouths some day. It has long been ripening; but in these days annexation is so unfashionable, and the Charter Committee is so near, that I don’t think the court would approve of my shaking the tree to help it down.²³²

He began building a case for “native” misrule in Awadh in 1854, compiling and categorizing examples of financial and judicial corruption, rampant crime, and the impoverishment of Awadh’s inhabitants.²³³ Numerous allegations of misrule were used to argue that the King of Awadh had violated the Treaty of 1801.²³⁴ Article 6 required the

²³⁰ Letter to Henry Samuel Chapman, January 7, 1866, *Collected Works*, vol. 16, 1135-36, quote in Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France*, (Princeton, 2005), 255; see, also, C.A. Bayly, “The British and Indigenous Peoples, 1760-1860: Power, Perception and Identity,” In Martin Daunton and Rick Halpern (eds.), *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850*, (Philadelphia, 1999), 19-41.

²³¹ Marquess of Dalhousie to George Couper, letter sent from Government House, September 18th, 1848, In J. G. A. Baird (ed.), *Private Letters of the Marquess of Dalhousie* (London, 1910), 33.

²³² Marquess of Dalhousie, letter sent from Simla, August 11th, 1851, J. G. A. Baird (ed.), *Private Letters of the Marquess of Dalhousie* (London, 1910), 169. Lucknow was the capital of Awadh. “The wretch” was the King.

²³³ British Parliamentary Papers (PP), 1856 [2086] “Oude - Papers relating to.,” 147-190.

²³⁴ C. U. Aitchison (ed.), *A Collection of Treaties, Engagements, and Sunnuds Relating to India and Neighboring Countries, volume II., Containing the Treaties, &c., Relating to the North-Western Provinces, Oudh, Nipal, Bundelcund and Baghelcund*, rev. Lieutenant A. C. Talbot (Calcutta, 1876), 100-103. Ratified for the EIC by the Governor-General, Lord Wellesley, on November 14, 1801.

EIC to guarantee in perpetuity to the Royal Family of Awadh both the possession of their remaining lands and Family's authority within those lands, while requiring that the administration of Awadh "be conducive to the prosperity of [the King's] subjects, and be calculated to secure the lives and property of the inhabitants [of Awadh]." ²³⁵

The Company's Court of Directors, which supervised the Governor-General from London, accepted Dalhousie's allegations and eventually agreed that the supposed treaty violation legitimized annexation. South Asian rulers' previous responses to annexation had been largely diplomatic and political, so the Royal Family petitioned the Crown, arguing "that the Military occupation and annexation of the Kingdom of Oude by the East India Company is a violation of solemn Treaties and Engagements existing between the British Nation and the Sovereign of Oude, that it is a violation of International Law and Public Justice." ²³⁶ The Royal Family's claims were dismissed.

Edward Williams, reflecting on his work as a representative of the EIC in Awadh in 1856, identified the dismissal as a turning point in relations between the Company and the "native army," the soldiers wherein regarded the annexation as an act "of rude and unjustifiable spoliation." ²³⁷ The reverberations of the revolt rippled outward around the world. It was represented in some European countries as representing the anti-absolutist,

²³⁵ C. U. Aitchison (ed.), *A Collection of Treaties, Engagements, and Sunnuds Relating to India and Neighboring Countries, volume II., Containing the Treaties, &c., Relating to the North-Western Provinces, Oudh, Nipal, Bundelcund and Baghelcund*, rev. Lieutenant A. C. Talbot (Calcutta, 1876), 102.

²³⁶ "Petition to the Queen from the Royal Family of Oudh," 1856, India Office Records, A/1/108, The British Library, Asia, Pacific & Africa Collection (hereafter, IOR, BL, and APAC, respectively); see, also, Fisher, "Indian Political Representations in Britain."

²³⁷ William Edwards, *Reminiscences of a Bengal Civilian* (London, 1866), 312.

nationalistic spirit of 1848.²³⁸ American abolitionists likened British imperial rule in India to slavery in the United States.²³⁹ Queen Victoria described the revolt in its relationship to the recently ended Crimean War, compared to which it was more indiscriminately violent and more distressing.

We are in sad anxiety about India, which engrosses all our attention. ... Altogether, the whole is so much more distressing than the Crimea—where there was glory and honorable warfare, and where the poor women and children were safe. ... Then the distance and the difficulty of communication is such an additional suffering to us all. ... There is not a family hardly who is not in sorrow and anxiety about their children, and in all ranks—India being the place where every one was anxious to place a son!²⁴⁰

She wrote to Lady Canning, the wife of the Charles Canning (1812-1862), the Governor-General of India during and after the revolt, “[t]hat our thoughts are almost solely occupied with India and with the fearful state in which everything there is—that we feel as we did during Crimean days and indeed far more anxiety, you will easily believe.”²⁴¹ Political introspection regarding Britain’s international and imperial engagements, and serious critiques of British imperialism, was a common feature of post-revolt Britain.²⁴²

²³⁸ Marina Carter and Crispin Bates (eds.), *Mutiny at the Margins: New Perspectives on the Uprising of 1857*, vol. 3, *Global Perspectives* (New Delhi, 2013); Shaswati Mazumdar, *Insurgent Sepoys: Europe Views the Revolt of 1857* (New York: Routledge, 2011); Gautam Chakravarty, *The Indian Mutiny and the British Imagination* (Cambridge, 2005).

²³⁹ “The Rebellion in India,” *North American Review*, 86 (April 1858), 487-515; Elizabeth Kelly Gray, ““Whisper to Him the Word ‘India’”: Trans-Atlantic Critics and American Slavery, 1830-1860,” *Journal of the Early Republic*, 28 (2008), 379-406.

²⁴⁰ Queen Victoria to King Leopold, September 2, 1857, In Barbara Harlow and Mia Carter (eds.), *Archives of Empire: Volume I. From The East India Company to the Suez Canal* (Durham NC, 2003), 481.

²⁴¹ Queen Victoria to Lady Canning, September 8, 1857, In Harlow and Carter (eds.), *Archives of Empire: Volume I.*, 481.

²⁴² Miles Taylor, “Imperium et Libertas? Rethinking the Radical Critique of Imperialism during the Nineteenth Century,” *The Journal of Imperial and Commonwealth History*, 19 (1991), 1-23.

The public identification by those in revolt of the Mughal Emperor, Bahadur Shah Zafar, as the legitimate ruler of India created a focal point in Delhi for symbolic unity among people throughout India and with various reasons to challenge the authority of the EIC. Likewise, the Company's eventual arrest, prosecution, conviction, and exile of Bahadur Shah, belittled by the Company as the "King of Delhi," symbolized, for the EIC, the legitimacy of Company rule over India.²⁴³ Long-standing opposition to Company rule in India became increasingly vigorous in Britain, despite the success of the EIC in quelling the revolt.²⁴⁴ John Stuart Mill defended the Company's administration in India and the policy of annexations in an 1858 memorandum and petition to the British Parliament, claiming the policy necessary for improving India and arguing for continued Company rule.²⁴⁵

The Company's petition, like the Royal Family's, failed. Parliament alleged Company misrule, intervened to censure the EIC, and legislatively ended Company governance, while assuming the prerogative to rule India.²⁴⁶ The Government of India Act of 1858 annexed an imaginatively rendered, territorially discrete India that could be subsumed, completely, into the British Empire. Parliament's legislative step ignored the

²⁴³ Martin R. Montgomery, *The Indian Empire*, volume III (London, 1858), 160-188, recounted witnessing the King's trial, which lasted 18 days.

²⁴⁴ John Bright, "India. I. The Vote of Censure—Government of India. House of Commons, May 20, 1858," In R. H. S. (ed.), *Speeches on the Public Affairs of the Last Twenty Years, by the Rt. Hon. John Bright, M. P.*, second ed. (London, 1869); Henry Richard, *The Present and Future of India under British Rule* (London, 1858).

²⁴⁵ John Stuart Mill, "Memorandum of the improvements in the administration of India during the last thirty years; and, The petition of the East-India Company to Parliament" (1858, reprint, London, 1968). Mill is well known for his political thought, but was employed by the EIC for 35 years, exclusively in London.

²⁴⁶ Government of India Act, 1858 (*21 & 22 Vict. c. 106*).

variegated texture of South Asian politico-legal life characteristic of the EIC era, erased the international status of the numerous pre-Crown, South Asian rulers, and deprived the India created by the Act of international legal personality.

Henry Maine identified the trauma of the Indian revolt as “the greatest fact in all Anglo-Indian history.”²⁴⁷ Maine imagined the intellectual shift from the universalist ethos of the civilizing mission to a “culturalist stance” that accepted deep-rooted historical differences and used these alleged differences to explain past failures of British policy.²⁴⁸ He saw India as an example of an ancient, or primitive, society, still organized by ties of kinship and status, that required British trusteeship to move into a modern, institutional world rooted in contract and reciprocity among peoples.²⁴⁹ Alongside Maine’s historical-evolutionary ideas, British racial attitudes hardened during the 1860s and the 1870s.²⁵⁰

Naoroji’s Civilizational and International Legal Thought

Naoroji epitomized Macaulay’s figure of the cultural intermediary, or translator, informing and attempting to ease the process of interaction, disputation, and adaptation

²⁴⁷ Henry Sumner Maine, “India,” In Thomas Humphry Ward (ed.), *The Reign of Queen Victoria: A Survey of Fifty Years of Progress*, volume I, (London, 1887), 460-528, at 470.

²⁴⁸ Mantena, *Alibis of Empire*.

²⁴⁹ Henry Sumner Maine, *Ancient Law: Its Connection with the Early History of Society, and Its Relation to Modern Ideas* (New York, 1864).

²⁵⁰ Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867* (Cambridge, 2002); J. W. Burrow, *Evolution and Society: A Study in Victorian Social Theory* (London, 1966).

between South Asians and Britons in the imperial environment.²⁵¹ He shared earlier reformers' concern with good character and their belief in the power of knowledge and institutions to impel moral and material progress. Similarly, a progressive-gradualist sensibility tempered his demands for governmental reform. His strategic collaboration with influential European allies aimed to focus attention on South Asians' liberal thought and to forestall criticism that South Asian liberals were simply anti-British or, worse, revolutionary.²⁵² His ability to form productive intellectual and political relationships with curious and sympathetic Britons strengthened and extended his influence on the development of liberalism and of liberal anti-imperialism.²⁵³

Victorian political theorists' contradictory impulses regarding the expansion or the restriction of rights became more elaborate and restrictive around the mid-nineteenth century and were closely tied to the concepts of nationality and character.²⁵⁴ National character underlay and connected political-theoretical debates about Britain's domestic and imperial governance and her global role as an arbiter of civilization. Theorists

²⁵¹ See Lauren Benton, *Law and Colonial Cultures*, regarding cultural translators; R. P. Masani, *Dadabhai Naoroji: The Grand Old Man of India*, with a foreword by Mahatma Gandhi (London, 1939) is the source relied upon for biographical information

²⁵² Letter from Naoroji to D. E. Wacha, August 29, 1890, in Masani, *Dadabhai Naoroji*, 311.

²⁵³ Koditschek, *Liberalism, Imperialism, and the Historical Imagination*; Banerjee, *Becoming Imperial Citizens*; Claeys, *Imperial Sceptics*; Nicolas Owen, *The British Left and India: Metropolitan Anti-Imperialism, 1885-1947* (Oxford, 2007); Jonathan Schneer, *London 1900: The Imperial Metropolis* (New Haven, 1999), 184-228, chapter 8 focuses on Naoroji, while chapter 9 discusses Naoroji's involvement in the First Pan-African Conference; Vikram Visana, "Vernacular Liberalism, Capitalism, and Anti-Imperialism in the Political Thought of Dadabhai Naoroji," *The Historical Journal*, 59 (2016), 775-797; Mary Cumpston, "Some Early Indian Nationalists and Their Allies in the British Parliament, 1851-1906," *The English Historical Review*, 76 (1961), 279-297.

²⁵⁴ Roberto Romani, *National Character and Public Spirit in Britain and France, 1750-1914* (Cambridge, 2002); Peter Mandler, *The English National Character: The History of an Idea from Burke to Blair* (London, 2006).

commonly argued that the unique conjuncture of British heritage and Britain's historical development created the moment in which ideas about individual rights and the practice of representative government could arise. The added focus on heritage, or nationality, modified Macaulay's thought, limiting his universalism by specifying a new criterion, an historical contingency, that affected the expansion of rights.

National differentiation, as a basis for rule, required separate and distinct nationalities, defined by John Stuart Mill as communities possessing a shared "identity of political antecedents; the possession of a national history, and consequent community of recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past."²⁵⁵ Nationality, when attached to territory, could be explained by presence or absence. India, regularly understood as a land of many nations, itself lacking a singular national population, existed as a mere administrative fiction, the composite Indian empire for the purposes of British rule.²⁵⁶ Naoroji, in his early years, avoided this debate. It was enough that South Asians shared the ongoing experience of British rule, and Naoroji simply and regularly referred to the "Indian nation" throughout decades of writing.²⁵⁷

²⁵⁵ John Stuart Mill, *Considerations on Representative Government* (London, 1861), reprinted in J. M. Robson (ed.), *Collected Works of John Stuart Mill, Volume XIX, Essays on Politics and Society* (Toronto, 1977), 546.

²⁵⁶ John Seeley, *The Expansion of England: Two Courses of Lectures* (Boston, 1883), 51; John Strachey, *India* (London, 1888), 1-8; Herbert Birdwood, "The Queen as a Mahomedan Sovereign," *The National Review*, 30 (1897), 578-590; Alfred C. Lyall, "Introduction," In Valentine Chirol, *Indian Unrest* (London, 1910), vii-xvi.

²⁵⁷ See, Dadabhai Naoroji, *Speeches and Writings* (Madras, 1917).

The evaluative aspect of the idea of character animated liberal political thought about the quality of varied, collective peoples' suitability, capacity, and preparedness for the exercise of liberty and self-government.²⁵⁸ The right to free, representative institutions and international recognition depended on the moral and ethical qualities associated with national character both within Britain and among particular foreign peoples.²⁵⁹ Mill and other intellectuals argued that uncivilized peoples, lacking good character, created uncivilized institutions or degraded the institutions in which they participated and should be precluded from participating in their own governance.²⁶⁰ In India, the empirical methods of natural science, applied to the human world, described the many nations of India with tools like the census and cartography, classifying the peoples of India into religious, caste, linguistic, and geographical categories for disinterested management.²⁶¹

Scientific racism underlay many theories of civilizational hierarchy, but both jurisprudence and missionary activities held out the possibility that inferior peoples could be improved through the law or through the gospel. The concept of race in imperial thought, although influenced by Arthur de Gobineau (1816-1892) and Charles Darwin (1809-1882), "usually figured as a *biocultural assemblage*, a hybrid compound of

²⁵⁸ Stefan Collini, "The Idea of 'Character' in Victorian Political Thought," *Transactions of the Royal Historical Society*, 35 (1985), 29-50; H. S. Jones, "The Idea of the National in Victorian Political Thought," *European Journal of Political Theory*, 5 (2006), 12-21; E. F. Biagini, "Neo-Roman Liberalism: 'Republican' Values and British Liberalism, 1860-1875," *History of European Ideas*, 29 (2003), 55-72.

²⁵⁹ See, Bruce L. Kinzer, *England's Disgrace? J. S. Mill and the Irish Question* (Toronto, 2001); Eugenio Biagini, *Gladstone* (Basingstoke, 2000).

²⁶⁰ John Stuart Mill, "Civilisation," In John M. Robson (ed.), *The Collected Works of John Stuart Mill, Volume XVIII - Essays on Politics and Society Part I (On Liberty)*, (Toronto, 1977 [1836]), 117-148; see, also, Pitts, *A Turn to Empire*, 142-143; Biagini, "Neo-Roman Liberalism."

²⁶¹ Edney, *Mapping an Empire*; Gottschalk, *Religion, Science and Empire*.

‘cultural’ and ‘biological’ claims about human evolutionary history, individual and collective character, comportment, physiognomy and mental capacity.”²⁶² The malleability of race, as an idea, was matched by variations in ideas about the nature of imperial belonging.

Duncan Bell identifies four, late-Victorian models of theorizing about imperial citizenship or belonging.²⁶³ Two are important here, and the others will be discussed in chapter three. “Imperial-statism” inscribed the local state within the imperial. This vision prized loyalty to the empire, the capacity for reciprocity in engagements, as the marker of local-state citizenship. It accommodated multiple polities at different stages of political development and allocated rights based on civilizational capacity and status.

“Institutional-imperialism” held that citizenship traveled with the boundaries of the empire-state. Benjamin Disraeli (1804-1881), Conservative Party member and two-time British Prime Minister, expressed the essence of this view in a speech in Manchester in 1866, saying, “[i]ndividuals may form communities, but it is institutions alone that can create a nation,” a Macaulay-esque view, but one that left undefined the political rights associated with imperial institutions.²⁶⁴ South Asians argued for their rights from these

²⁶² Duncan Bell, “Beyond the Sovereign State: Isopolitan Citizenship, Race and Anglo-American Union,” *Political Studies*, 62 (2014), 418-434, at 420. italics in the original; Gregory Blue, “Gobineau on China: Race Theory, the “Yellow Peril,” and the Critique of Modernity,” *Journal of World History*, 10 (1999), 93-139.

²⁶³ Bell, “Beyond the Sovereign State,” 420-424.

²⁶⁴ *Wit and Wisdom of Benjamin Disraeli, Lord Beaconsfield, Collected from His Writings and Speeches* (London, 1881), 171.

vantage points, emphasizing both their fidelity to the empire and the promises associated with British rule.

Naoroji responded as a public intellectual and as a practical, strategic political actor to these imperial, civilizational, racial ideologies, all of which affected imperial governance, and all of which were imbricated with international legal thought and practice. The documentary foundation for his work comprised the Company's 1833 charter and Queen Victoria's Proclamation of 1858, which acknowledged the anti-discrimination policy of 1833 and promised that the British Crown would rule with respect for South Asian treaties, territories, rights, and religions.²⁶⁵ These documents functioned as a moral-constitutional charter, a Magna Carta for India, deviation from which reflected poorly on British national character and on imperial institutions.²⁶⁶ He combined the universalism and progressive historicism of the civilizing mission with a commitment to institutional-imperial constitutional order and a nascent internationalism to compel the state to recognize the Indian polity and to represent Indian interests.

Naoroji's public-intellectual efforts to address oppressive civilizational, religious, and racial ideologies predate his political-economic work. He published two papers on his own religious community, the Parsis, in 1861 and 1862. Parsi identity encompassed

²⁶⁵ "The Court of Directors on the Intent and Meaning," In Desika Char (ed.), *Readings in the Constitutional History*, 727, fn. No. 105 (2); Victoria, "Proclamation of 1858," In Desika Char (ed.), *Readings in the Constitutional History*, 299; see, also, Michael H. Fisher, "Indian Political Representations in Britain during the Transition to Colonialism," *Modern Asian Studies*, 38 (2004), 649-675.

²⁶⁶ See, Henry J. S. Cotton, *India and Home Memories* (London, 1911); Banerjee, *Beoming Imperial Citizens*, 22-23; Mrinalini Sinha, "The Strange Death of an Imperial Ideal: The Case of *Civis Britannicus*," in Saurabh Dube (ed.), *Handbook of Modernity in South Asia: Modern Makeovers* (Oxford, 2011), 29-42, at 33-34.

more than religion. It derived from the communal understanding of Parsis as migratory, urban, commercial, and cosmopolitan, and Naoroji himself exemplified the community in these terms.²⁶⁷ He delivered both papers in Liverpool, one before the Literary and Philosophical Society and the other before the Philomathic Society.²⁶⁸ The scholarly institutions that welcomed him and the European audiences that acknowledged his expertise did so not because he was a Parsi but on the basis of his effective mobilization of the academic and public-intellectual conventions of the time, including his publications and participation in conferences.

Naoroji pursued educational and persuasive goals with his papers on the Parsis. He emphasized civilizational similarities in the face of arguments that stressed difference. Parsis, he explained, were monotheists, like Christians and Muslims. The religious teachings of Zoroastrianism, again emphasizing equivalence, required monogamy, honesty, and charity, while disallowing idolatry and the degradation of women. He also compared the Parsis to the Jews, noting that both diasporic nations had maintained their integrity despite persecution, migration, and subsequent lives as exiles among foreigners. Historical circumstances had degraded Parsis' educational and social condition, but the Parsi community, heir to a great Persian civilization, had imbibed the spirit of reform and was actively contributing to the betterment of India.

²⁶⁷ See, Jesse S. Palsetia, *The Parsis of India: Preservation of Identity in Bombay City* (Leiden, 2001); Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772-1947* (Cambridge, 2014).

²⁶⁸ Dadabhai Naoroji, *The Parsee Religion* (Liverpool, 1861); Dadabhai Naoroji, *The Manners and Customs of the Parsees* (Liverpool, 1862); see, also, Bayly, *Recovering Liberties*, 173-176.

Naoroji engaged publicly with scientific-racist thinking in a paper delivered to the London Ethnological Society in July 1866. He rebutted the assertions made in February of that year by the Society's president, John Crawfurd, who had delivered a paper entitled, "On the Physical and Mental Characteristics of European and Asiatic Races of Man."²⁶⁹ Crawfurd had argued, ostensibly using scientific methods and evidence, that Asians were morally and culturally inferior to Europeans, deceitful, and possessed "no fidelity to engagements."²⁷⁰ Naoroji accused Crawfurd of applying a rhetorical veneer of science onto civilizational and racial bigotry. Naoroji used in literary criticism to compare European and Asian cultural works, illustrating the merits of both in a way that made Crawfurd seem more polemicist than scientist. He cited extensively and catholically both historical persons as examples of Asian creativity in religion, governance, and literature, and modern European scholars, who supported his analysis and lent authority to his critique.

He traversed time and space, revisiting his earlier papers on the Parsis to argue that this religious community possessed an ancient history of teaching the value of honesty, quoting Herodotus on the ancient Persians' aversion to deceit, and mobilizing both the Code of Manu and the Mughal emperor Akbar's prime minister, Abul Fazl, to demonstrate Hindus' love of justice, truth, and fidelity. He asserted that any people would

²⁶⁹ John Crawfurd, "On the Physical and Mental Characteristics of European and Asiatic Races of Man," *Transactions of the Ethnological Society of London*, 5 (1867), 58-81; Dadabhai Naoroji, "Observations on Mr. John Crawfurd's Paper," *Transactions of the Ethnological Society of London*, 5 (1867), 127-149; see, also, Theodore Koditschek, *Liberalism, Imperialism, and the Historical Imagination: Nineteenth-Century Visions of a Greater Britain* (Cambridge, 2011), 233-234.

²⁷⁰ Naoroji, "Observations," 132.

happily admit pride in Confucius, Christ, or Muhammad. His European authorities included William Jones and John Malcolm, both East India Company civil servants and scholars; two German orientalists, Max Muller and Theodore Goldstucker; and some British Indian judges, including Thomas Erskine Perry and J. B. Phear. The last two vouched that contemporary South Asians' veracity as complainants, defendants, lawyers, and judges in the courts equalled that of the British. Some people were truthful and others deceitful, they maintained. Naoroji also referenced his current duties as a professor at University College in London to demonstrate a similar point, that Indian students performed equally well, and equally poorly, as British students, when given the same educational opportunities.

Context and contingency, not innate differences, mattered. If Herodotus was correct about ancient Persians' honesty, and if Crawford was also correct about contemporary Persians' proclivity for deceit, then race could not explain the change over time. He also noted that two early modern, European, international-law authorities, Grotius and Samuel Puffendorf, had sanctioned deceit for limited, moral reasons, as had Jeremy Bentham. Historical contingencies could give "a peculiar direction to [a peoples'] character and history," and Naoroji wondered whether the United States would have existed without a tax on tea or whether Britain would be merely the province of some other empire but for her island geography.²⁷¹ It was no more fair, in his analysis, to point to individual instances of dishonesty to disparage all South Asians than it was to blame

²⁷¹ Naoroji, "Observations," 148.

the British, as a people, for the “iniquitous annexation policy in spite of treaties.”²⁷² His paper attempted to disentangle the supposed science of racial difference from history to argue that an acknowledgment of historical contingency, knowledge born of careful study, and institutional accountability offered the best framework for understanding human events and ordering inter-relations.

Naoroji did not merely participate in scholarly institutions. He founded “knowledgeable” institutions, by gathering European allies whose participation in South Asian institutions undermined the authority of British public intellectuals like Mill and by using these institutions to express a vision of participatory civic nationalism that could be juxtaposed with the civilizational nationalism that animated British governance in India. He worked to institutionalize his relationships and South Asian liberalism as a body of knowledge, by founding the London Indian Society in 1865, along with W. C. Bonnerjee, a law student at Middle Temple, to allow South Asians and Britons to exchange views on subjects related to India. He collaborated with Bonnerjee again in 1866 to found the East India Association, which was funded by donations from the rulers of South Asian princely states and intended to provide “independent and disinterested advocacy and promotion by all legitimate means of the interests and welfare of India generally.”²⁷³ He

²⁷² Naoroji, “Observations,” 142.

²⁷³ “Rules of the East India Association for Promoting Indian Interests,” *Journal of the East India Association*, volume I (London, 1867), 8; on princely patronage of the Association, see, John R. McLane, *Indian Nationalism and the Early Congress* (Princeton, 1977), 208-209.

convinced the members of the Association, in 1868, to assist his efforts to create local branches in Calcutta, Bombay, and Madras.²⁷⁴

The Association's office and reading room were located at 55 Parliament Street, no more than a short two or three minute walk from the Houses of Commons and Lords, and the India and Foreign Offices, the latter two being purpose-built between 1856 and 1868 to convey Britain's global power and prestige.²⁷⁵ The founders envisioned the Association as an institution that could educate others to act as constructive critics of empire. They aimed to supersede the fairly casual exchanges of ideas fostered by the London Indian Society and to educate anyone interested in India through regular presentations and discussions of papers on Indian political issues, to advocate particular policies to Parliament and the India Office, and to "become one of the permanent institutions of London."²⁷⁶ Naoroji imagined an institutional, informational network that would connect and distinguish local and imperial knowledge, thereby strengthening the Association's efforts to influence policy.

The Association provided the venue for Naoroji to share his early political and economic ideas, which built on a global legacy of economic thought.²⁷⁷ He responded to

²⁷⁴ Dadabhai Naoroji, "On the Duties of Local Indian Associations," *Journal of the East India Association*, volume II (London, 1868), 329-330.

²⁷⁵ G. Alex Bremner, "Nation and Empire in the Government Architecture of Mid-Victorian London: The Foreign and India Office Reconsidered," *The Historical Journal*, 3 (2005), 703-742.

²⁷⁶ "Introduction," *Journal of the East India Association*, volume I (London, 1867), 4.

²⁷⁷ Armitage, *The Ideological Origins*; Hont, *Jealousy of Trade*; Goswami, *Producing India*; Bayly, *Recovering Liberties*; Emma Rothschild, "Global Commerce and the Question of Sovereignty in the Eighteenth-Century Provinces," *Modern Intellectual History*, 1 (2004), 3-25; J. V. Naik, "Forerunners of Dadabhai Naoroji's Drain Theory," *Economic and Political Weekly*, 36 (2001), 4428-4432.

British free-trade ideology, which became one of the defining features of the British empire in nineteenth century, and one crucial aspect of what it meant to be British.²⁷⁸ The version of free trade propounded by Adam Smith and some French economists, and adopted by later British intellectuals like Richard Cobden, argued against the possession of colonies.²⁷⁹ Adam Smith had denounced mercantilism's avaricious, monopoly-seeking behavior and imagined that free trade, rooted in international negotiation and law, would achieve both international peace and widespread economic progress.²⁸⁰

The potential pacific effects of free trade captivated liberal intellectuals and motivated organizational efforts to support free trade. Later intellectuals like John Stuart Mill argued against the universalism of Smith and Richard Cobden. Mill attempted to reconcile free-trade theory with colonialism by comparing, in an imperial-statist vein, colonies to towns within Britain, in *Principles of Political Economy*, published in 1848. Colonies, he argued, were "hardly to be looked upon as countries, carrying an exchange of commodities with other countries, but more properly, as outlying agricultural or manufacturing estates belonging to a larger community."²⁸¹

Theoretically, this stance placed South Asians in a position of equality with all other Britons regarding the claims they could make on the government to represent their

²⁷⁸ Anthony Howe, *Free Trade and Liberal England, 1846-1946* (Oxford, 1997).

²⁷⁹ Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton NJ, 2005), 52-58; David Nicholls, "Richard Cobden and the International Peace Congress Movement, 1848-1853," *The Journal of British Studies*, 30 (1991), 351-376.

²⁸⁰ Anthony Howe, "Free Trade and Global Order: the Rise and Fall of a Victorian Vision," In Bell (ed.), *Victorian Visions of Global Order*, 26-46.

²⁸¹ Quote in Goswami, *Producing India*, 44.

interests, but in political practice, it led to second-class status. Mill had already argued that supposedly uncivilized peoples, including South Asians, could, and should, be barred from political and civic life until the civilizing effects of British rule enabled their participation. Increasingly over time, a distinction emerged related to the use of colonies as safety valves for excess population and as sources of revenue to offset taxes at home.²⁸² The settler colonies were “Britannia’s children,” extensions of Britain with populations culturally and nationally British, so imperial constitutional law was adjusted in ways that precluded using the settler colonies as safety valves.²⁸³

Naoroji’s early political and economic ideas appeared in a speech entitled, “England’s Duties to India,” given at a meeting of the East India Association in London on May 2, 1867.²⁸⁴ The “drain of wealth” theory, for which he is most known, held that the East India Company had transferred to Britain, and the Government of India under Crown rule continued to transfer to Britain, the wealth of India. The theoretical conceit of draining wealth required a departure from the Henry Rawlinson’s imperial-statist idea of empire and interests. India, in Naoroji’s imagining, existed as a one space that could be emptied into another, separate space, necessarily a distinct political-economic space. He began his reading by identifying as the desired audience for his paper those Britons who

²⁸² Taylor, “The 1848 Revolutions and the British Empire.”

²⁸³ Eric Richards, *Britannia’s Children: Emigration from England, Scotland, Wales and Ireland since 1600* (London, 2004); Belich, *Replenishing the Earth*; Bell, *The Idea of Greater Britain*; H. S. Jones, “The Idea of the National in Victorian Political Thought,” *European Journal of Political Thought*, 5 (2006), 12-21.

²⁸⁴ Dadabhai Naoroji, “England’s Duties to India,” In Chunilal Parekh (ed.), *Essays, Speeches, Addresses and Writings, (On Indian Politics,) of the Hon’ble Dadabhai Naoroji* (Bombay, 1887), 26-50.

asked whether British rule had been a blessing for India in a spirit of sincerity, patriotism, and philanthropy, desirous of a candid answer. He clearly believed that such Britons existed and that knowledge of the true state of affairs in India would motivate reform.

Naoroji chided those among the British who claimed that the wealth of India was due to British rule, noting that it had not been Indian poverty but the pre-existing prosperity of the subcontinent that had attracted both conquerors and trading companies. He proceeded by using data collected and compiled by the British and Indian governments as the foundation for a discussion of the many ways that Indian wealth was transferred to Britain; home charges, the monies assessed by the British imperial government for costs associated with administration in South Asia, such as certain military costs; interest on debt for public works; remittances sent to Britain by civil servants for their families; money spent on British manufactures by civil servants and the government. He regularly used the government's data to craft arguments criticizing British rule, a method that historian Christopher Bayly called statistical liberalism.²⁸⁵

Naoroji asserted that Indian revenues ought to be used for Indian purposes, and the British were bleeding the country by compelling tribute. He explained this conclusion by discussing "[t]he foreign invaders of former times," a direct but tactful reference to the Mughals.²⁸⁶ In the past, invaders would plunder the country and leave, but when they

²⁸⁵ Bayly, *Recovering Liberties*, 104-131.

²⁸⁶ Naoroji, "England's Duties to India," 30.

stayed to rule, they “became *of* the country,” and wealth remained “*in* the country.”²⁸⁷

The British could not claim credit for the benefits their governance, if they chose to enact foreign, extractive practices of rule, and the people of India should not be required to pay for British governance if they obtained no benefit from it. His implication that the Muslim invaders of the past had become “*of* the country” served two goals. First, it compared British rule unfavorably to Mughal rule, which had ended at the hands of the British only nine years earlier, thereby calling into question the good character and beneficence of British governance and the idea of might makes right. Second, it countered the common idea that South Asians were a congeries of nations, lacking any unifying sensibility, and it situated Muslims as Indians, unlike the British foreigners.

The British, according to Naoroji, faced a choice among three policies for governing India: despotic, exclusionary rule; benign, exclusionary rule; or “equality among all her Majesty’s subjects and honesty with the princes of India... the policy of justice.”²⁸⁸ The first policy would perpetuate tyranny. The second would deaden aspiration and render impossible either moral or intellectual progress. In either case, the ethical justifications for British rule in South Asia would be revealed as empty boasting, designed to conceal practices of extraction and expropriation. The only true path forward led back to the elimination of discrimination in the civil service promised by the East India Company charter of 1833 and to the respect for princely sovereignty and the rights

²⁸⁷ Naoroji, “England’s Duties to India,” 30, italics in the original.

²⁸⁸ Naoroji, “England’s Duties to India,” 34-35.

and religions of South Asian subjects promised by the Queen in 1858. He also advocated that South Asians, as tax-paying fellow-subjects, ought to hold seats in the imperial Parliament, and that Parliament generally should pay greater attention to Indian affairs, all recommendations that would become constant features in his political thought. He argued that the fact of India as a part of the British empire had enriched Britain and enhanced her global power and prestige, and the demands of good character obligated them to acknowledge this reality by governing properly.

Despite the power of free-trade thought, the practice of free trading was challenged by pro-imperial and mercantilist-inflected protectionist ideas throughout the nineteenth century.²⁸⁹ Mercantilism is notoriously difficult to define, but generally, it refers to policies related to economic and military competition between developing states. It relates, more specifically, to ideas about competition between states for the enhancement of trade in the national interest.²⁹⁰ Theorists saw states as self-contained units participating in a zero-sum system of international trade. State-building was enhanced by conquest and colonialism because colonies provided new markets and outlets for surplus capital and people. Colonialism, in a mercantilist world, was perceived as a form of self-defense for developing empire-states.

²⁸⁹ Howe, *Free Trade and Liberal England*; see, also, Boyd Hilton, *The Age of Atonement: The Influence of Evangelicalism Social and Economic Thought, 1795-1865* (Oxford, 1988), on the intellectual contestation and vibrancy of the time.

²⁹⁰ Anthony Brewer, "Cantillon and Mercantilism," *History of Political Economy*, 20 (1988), 447-460.

Naoroji drew on the free trade versus mercantilism debates and used the political-economic rhetoric of both to craft arguments that were aimed at state building within the empire. He argued that Britain had governed India from a mercantilist perspective, that colonial governance had acted as a mechanism for India's economic immiseration, as though Britain and India were locked in a zero-sum game of competition. Good character required that Britain adopt her own self-proclaimed ideals with respect to India. The ideological underpinnings of free-trade thought held that commerce among free and equal peoples would promote civilization and the welfare of all peoples, maintain peace, and encourage progress by eliminating national rivalries.²⁹¹

He was aligned in his thought with intellectuals like Richard Cobden, who saw among the moral and practical benefits of free trade mutual respect and recognition, an end to territorial conquest, and the elimination of militarism. Naoroji, at the same time, reinvigorated the concept of mercantilism for his own purposes, by envisioning an internally differentiated empire. He described India as a discrete space that could be drained only with the uncivilized complicity of British India's centralized, bureaucratic state but that should be allowed to prosper as an equal part of the British world state.²⁹²

Naoroji's response to India's involvement in the Abyssinian dispute occurred within both a global and a domestic historical context. The period between 1840 and

²⁹¹ Howe, "Free Trade and Global Order," In Bell (ed.), *Victorian Visions of Global Order*.

²⁹² See Claude Markovits, *Merchants, Traders, Entrepreneurs: Indian Business in the Colonial Era* (New York, 2008), 4-25; Goswami, *Producing India*; Bipan Chandra, *The Rise and Growth of Economic Nationalism in India* (New Delhi, 1966).

1880 was one “of endemic violence,” the death toll especially high in the 1850s and the 1860s due to the Taiping Rebellion (1851-1864), the Crimean War (1853-1856), and the American Civil War (1861-1865).²⁹³ East India Association discussions indicated a distinct awareness India’s global connections. Robert Knight (1825-1890), a British journalist for the *Times of India* and founder of *The Statesman*, contextualized Naoroji’s commentary, noting that the “chronic deficits” of the Indian government before 1857 no longer existed because of the discovery of gold in California and Australia, which had increased global currency, the opium trade, and the demand for Indian jute and cotton created by the Crimean war and the American Civil War.²⁹⁴

The Foreign Office contacted the India Office in London in 1866 to request diplomatic assistance from the Government of [British] India in Calcutta (GoI). The GoI’s Foreign Department had retained the East India Company’s (EIC) responsibility for British foreign policy and diplomacy between coastal eastern Africa and East Asia, and for relations with the princely, or native, states, after the Company’s dissolution in 1858.²⁹⁵ Abyssinia fell outside the GoI’s regular political-geographical jurisdiction, but the Foreign Office believed that negotiations could be conducted more quickly from India

²⁹³ Michael Geyer and Charles Bright, “Global Violence and Nationalizing Wars in Eurasia and America: The Geopolitics of War in the Mid-Nineteenth Century,” *Comparative Studies in Society and History*, 38 (1996), 619-657, at 622; see, also, Bayly, *The Birth of the Modern World*, 148-160.

²⁹⁴ Knight, “India: A Review,” 247, 242.

²⁹⁵ J. W. S. Wyllie, *Essays on the External Policy of India*, W. W. Hunter (ed.) (London, 1875); Blyth, *The Empire of the Raj*; James Onley, *The Arabian Frontier of the British Raj: Merchants, Rulers, and the British in the Nineteenth-Century Gulf* (Oxford, 2007); Benton, “From International Law to Imperial Constitutions;” Ian Copland, “The Baroda Crisis of 1873-77: A Study in Governmental Rivalry,” *Modern Asian Studies*, 2 (1968), 97-123.

than from Britain. The regional, Bombay-presidency government in western India, which routinely managed foreign relations in eastern Africa and parts of the Middle East, sent members of the Indian Political Service, the GoI's diplomatic corps, from the Aden protectorate in contemporary Yemen, to undertake a second negotiation for the captives' release.²⁹⁶

King Theodore, "capricious in disposition and violent in temper," jailed the envoy and retained him with the consul and the other hostages.²⁹⁷ The Foreign and War Offices in London called again on the India Office for help, in autumn 1867, and the regional government in Bombay assumed war-planning duties. Stafford Northcote, the Secretary of State for India, was not alone in justifying his support by alluding to global order and by citing the belief that Britain was part of, and possessed an obligation to, the "civilized world." Henry Rawlinson believed that Theodore's actions, left unchecked, would undermine Britain's honor and prestige and, therefore, her credibility as an exemplar and an arbiter of civilizational status and progress.

Northcote justified the government's plan in two ways. First, he argued, South Asians were curious and knowledgeable about the foreign relations of India and the empire. Many possessed close economic, religious, and political ties, sustained by purposeful migration, with peoples throughout eastern Africa, the Middle East, and Asia.

²⁹⁶ See, W. Murray Hogben, "An Imperial Dilemma: The Reluctant Indianization of the Indian Political Service," *Modern Asian Studies*, 15 (1981), 751-769; Ramusack, *The Indian Princes*, 98-105, on the Indian Political Service; for Aden, see, John M. Willis, "Making Yemen Indian: Rewriting the Boundaries of Imperial Arabia," *International Journal of Middle East Studies*, 41 (2009), 23-38.

²⁹⁷ "The Abyssinian War," *The London Review of Politics, Society, Literature, Art, and Science*, 15 (November 30, 1867), 586-587, at 586.

Second, emissaries dispatched from “the Indian empire” went most often to “semi-barbarous states” unacquainted with Western or, tautologically, civilized international legal practice. Consequently, the peoples and the state of India had “a very keen interest in the protection of those who [were] sent to speak in her name.”²⁹⁸ The expedition would serve as a lesson to all “uncivilized” states, thereby strengthening Indian security.

Henry Rawlinson also recognized South Asians’ extra-subcontinental knowledge and relationships, but he saw these as a cause for concern. The Indian empire allowed Britain to control Russian imperial expansion, and South Asians’ relationships outside of India threatened to make this more difficult.²⁹⁹ Rawlinson, like many observers, believed that the perception of British weakness during the Crimean War (1853-1856), fought alongside the Muslim Ottoman empire against Russia, had emboldened the perpetrators of the Indian revolt in 1857.³⁰⁰ A demonstration of British military might in Abyssinia, witnessed first-hand by South Asian troops, would lessen the likelihood that disaffection in India would again turn violent. Indian interests and resources, for Rawlinson, were British interests and resources, to be used as needed to project British power, which buttressed Britain’s rule in “the East.”

Naoroji’s interest was not in the legality of the expedition but in the cavalier use of Indian resources to plan and execute an imperial war. His arguments resonated

²⁹⁸ HC Deb., November 28, 1867, vol. 190, col. 372.

²⁹⁹ See, e.g., Henry Rawlinson, *England and Russia in the East: A Series of Papers on the Political and Geographical Condition of Central Asia* (London, 1875).

³⁰⁰ See, “The Abyssinian War,” *The London Review*, 15 (November 30, 1867), 586-587, for a discussion of this perspective in the broader arena of public opinion.

especially clearly because the government had been criticized for funding the state visit to Britain of the Ottoman sultan during the past summer.³⁰¹ Naoroji expressed a desire for cooperation with the Government of India, with which he shared the goal of “the good government and welfare of India,” but he argued that the British government’s decision to fund the Abyssinian expedition with Indian money was unjust, injurious to British prestige, and contrary to past practice, recalling the commonplace nature of treaties between the East India Company and native rulers in the late-eighteenth century, “[w]hen the English Government was only one of many independent Indian Powers.”³⁰²

The treaties, easily accessible being collected and published by the Government of India, required that the party activating a mutual-defense provision by requesting assistance from the other signatory would assume total financial responsibility for the military help it received.³⁰³ Naoroji reminded the British, in an echo of his debate with John Crawford, that civilized peoples respect the “fidelity of engagements.” The structure of his argument drew on “the pervading maxim of International... jurisprudence,” the principle of *pacta sunt servanda*, agreements must be kept, which required adherence to both the letter and the spirit of a treaty.³⁰⁴ The principle of *rebus sic stantibus* allowed

³⁰¹ Knight, “India: A Review,” 230; Lang, *Life, Letters, and Diaries of Sir Stafford Northcote*, 196; Leslie Stephen, *The Life of Henry Fawcett*, second ed. (London, 1885), 343-344; Bremner, “Nation and Empire in the Government Architecture,” 740.

³⁰² Naoroji, “Expenses of the Abyssinian War,” 46.

³⁰³ See, e.g., C. U. Aitchison (ed.), *A Collection of Treaties, Engagements, and Sunnuds Relating to India and Neighboring Countries*, Eight volumes (Calcutta, 1862-1866).

³⁰⁴ Robert Phillimore, *Commentaries upon International Law*, volume II (Philadelphia, 1855), 55064, at 56; see, also, Edward S. Creasy, *First Platform of International Law* (London, 1876), 40, 69, 130; Thomas Erskine Holland, *The Elements of Jurisprudence*, volume II (Oxford, 1882), 193.

that changed circumstances could obviate earlier agreements, but the Queen's Proclamation seemed to indicate that circumstances had not altered conditions so much so that the treaties could be considered extinguished.

His analysis led to him to "hope [that] the standard of fair play of the Crown [was] not to be inferior to that of the Company."³⁰⁵ No one hearing this entreaty, only nine years after the British government had dispossessed the East India Company of its Indian empire, would have failed to remember that Parliament had done so on the basis of Company misrule in India or that the Queen had proclaimed that India would be governed, in part, based on respect for earlier treaty obligations. The discussion of treaties acted to demarcate the British and Indian governments, as well as the British and India polities. The treaties were based on a clear recognition of separate political entities, states, negotiating in a relationship of nominal equality.

The people who funded the administration of their own civic life had a right to receive respect for their separate existence and recognition of their distinct interests and needs. India needed, according to Naoroji, to save money when possible, a need more pressing for India than for Britain. "Famines, intellectual and physical, [were the] crying evils [of India's impoverishment]."³⁰⁶ South Asians should not have been compelled to fund military expenditures greater than necessary for protection of Indian interests, and certainly not to protect the interests of Britain, which was capable of supporting itself.

³⁰⁵ Naoroji, "Expenses of the Abyssinian War," 48.

³⁰⁶ Naoroji, "Expenses of the Abyssinian War," 49.

Naoroji acknowledged the arguments that British prestige was at stake and that Britain had a duty to protect its envoys. However, he wrote,

The prestige which England has to maintain under such circumstances is to shew [sic] that she is *herself* able to hold her own, from her own resources; not that she is so poor or unfair that she is unable or unwilling to pay for the very troops which are employed in vindicating her honour, and liberating her own representative, and helps herself from the Indian purse.³⁰⁷

He ended by citing the Government of India Act of 1858, which allowed Indian monies to be used for military operations beyond the frontiers of India only “for preventing or repelling actual invasion of Her Majesty’s Indian possessions, or under sudden and urgent necessity,” unless both Houses of Parliament approved an expenditure that departed from the sort imagined by the Act.³⁰⁸ Naoroji described India as a distinct political entity with unique needs and interests, nothing like one of John Stuart Mill’s “outlying agricultural or manufacturing estates belonging to a larger community.”³⁰⁹ He imagined a Government of India that recognized these needs and represented these interests, negotiating with external parties from a position of equality. He also acknowledged that good character was the only bulwark against governmental abuse, when Parliament could override the explicit provisions of its own legislation, so he called on the British live up to their claims of civilization and good breeding, to act on the moral and ethical obligations of rulers who believe in law, order, and justice.

³⁰⁷ Naoroji, “Expenses of the Abyssinian War,” 49, italics in the original.

³⁰⁸ Naoroji, “Expenses of the Abyssinian War,” 50.

³⁰⁹ Quote in Goswami, *Producing India*, 44.

Naoroji had no way of knowing, as he prepared his paper for delivery on November 29, that Parliament would approve the expedition plan on November 28, 1867. In fact, Stafford Northcote acknowledged that Parliament's vote had been taken earlier than planned because of increasingly effective public agitation against the expedition.³¹⁰ This acknowledgement gave Naoroji the chance to offer additional remarks based on the Parliamentary debate following his reading of the prepared paper. Northcote had admitted that India's material interests were not implicated in the Abyssinian war question, but he claimed to have negotiated the use of Indian troops with the goal that India not "make money." India would pay only what would have been paid absent the war. Naoroji rightly noted that this approach still required India to pay for a notional Indian portion of the conflict, despite the fact that British goals in Abyssinia failed to involve Indian interests.

More importantly, Northcote invoked principles of imperial unity and international law. He went on to declare that it was important for South Asians to witness the British upholding this principle. Naoroji posed the question, why, if this principle of international law were of imperial import, was India the only colony expected to share the burden of money and men? He also remarked that South Asians were likely to interpret Britain's use of India's money and men as an example of unethical parsimony, an extraction of resources from India "simply because India [could not] help herself."³¹¹ Northcote and Rawlinson, Naoroji opined, misapprehended the supposed lesson that

³¹⁰ HC Deb., November 28, 1867, vol. 190, col. 372.

³¹¹ Naoroji, "Expenses of the Abyssinian War," 51.

would be learned in India. The use of Indian resources to prosecute a British war would, in fact, undermine, rather than strengthen, British credibility.

The British government, like the EIC, was abrogating, methodically and unilaterally, its institutional, inter-state legal obligations, thereby besmirching its character in the subcontinent to save its honor in Africa. The use of these resources, contrary to the legal, institutional, and constitutional obligations that bound India to the empire amounted to an unjustifiable expropriation and arbitrary misrule, one of the main reasons for the British government's dispossession of the Company. Naoroji could offer no counter argument, if British character and the civilizing mission were simply theoretical veneers for despotism based on the principle of might makes right, but he believed "the English government to be guided by the principles of justice and truth."³¹²

Naoroji's vision of global and imperial order differed greatly from the one propounded by supporters of the expedition, which was dominant, though not universal. He applied his earlier civilizational discourses in a more assertive, affirmative manner, portraying South Asians, in this dispute, as the people who understood the international legal value of fidelity in engagements and of reciprocity in inter-relations. His borrowing from economic theory had imagined India as discrete and territorially delimited, and he combined the imperial-statist and imperial-institutional models of citizenship to explain India as an equal part of a composite, multi-ethnic empire, with interests of state that demanded imperial recognition. This vision underpinned his call for the Secretary of

³¹² Naoroji, "Expenses of the Abyssinian War," 53.

State to represent the interests of India and the common good of its South Asian citizen-subjects.

Conclusion

Dadabhai Naoroji used the ideology of the imperial civilizing mission to build a critique of British imperial governance in India. He argued that British national character was questionable, both in the colloquial sense, implying that it might not be what it seemed, and more directly, that it could be questioned, criticized, and opposed. He used comparative sociological methods to describe South Asian Parsis as historically civilized peoples. The international legal discourse and politics of his Abyssinian war-related commentary on treaty relations between the East India Company and independent South Asian rulers imagined an alternative future with historical evidence by arguing that Britain and India ought to be separate political entities negotiating honestly and as equals within the empire. He created institutions in Britain and in India to disseminate this critique and to influence British imperial policy.

He envisioned a discrete Indian state within the empire and the equality of Indian interests within an imperial commonwealth. This preceded and informed his neo-mercantilist political-economic model of India within the empire, both of which provided a model for later South Asian liberals. Naoroji's foreign-affairs commentary focused on the use of Indian wealth to prosecute imperial wars unrelated to India. South Asians who adopted Naoroji's political-economic methods used his argumentative strategy to

juxtapose the legitimate, internal, societal responsibilities of the Indian state, such as famine relief or economic development, with illegitimate, external, imperial frontier wars and territorial expansion. Naoroji's demand that the state recognize and prioritize Indian interests invoked a South Asian national sensibility grounded in the British birthright of justice and shared responsibility for governance.

Chapter 2

South Asian Muslim Modernists and the “Standard of Civilization”

Jawaharlal Nehru wrote, “[a]fter 1857, the heavy hand of the British fell more upon the Moslems than on the Hindus.”³¹³ Opinions about the historical accuracy of this assertion vary, but the feeling that this was true was widespread among Muslims.³¹⁴ Religious thinkers and leaders actively questioned both how to accommodate changing political circumstances and what should be the proper relationship between Muslims and non-Muslims.³¹⁵ They did so in the face of challenges posed by a new sensibility of decline and inferiority.³¹⁶ British intellectuals, colonial administrators, and South Asian Muslims debated the history and the contemporary meaning of a centuries-old Islamicate civilization, which encompassed both the religion of Islam and, according to Marshall Hodgson, “the social and cultural complex historically associated with Islam and the Muslims.”³¹⁷ Historically developed Islamicate forms of statecraft, diplomacy, law, and

³¹³ Jawaharlal Nehru, *An Autobiography* (London, 1949), 460.

³¹⁴ Peter Hardy, *The Muslims of British India* (Cambridge, 1972), disputes this view; Barbara Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (New Delhi, 1982), leans in the direction of Nehru’s assessment.

³¹⁵ Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (London, 2000); Thomas R. Metcalf, *The Aftermath of Revolt: India, 1857-1870* (Princeton, 1964).

³¹⁶ Aziz Ahmad, *Islamic Modernism in India and Pakistan, 1857-1964* (London, 1967); Muhammad Q. Zaman, *The Ulama in Contemporary Islam: Custodians of Change* (Princeton NJ, 2002).

³¹⁷ Hodgson, *The Venture of Islam*, vol. I, 59; see, also, Hugh Kennedy, *Caliphate: The History of an Idea* (New York, 2016).

inter-relational practices existed, but the British regarded these as inferior, duplicitous, and even barbarous.³¹⁸

Responses to this new state of affairs varied. Some Muslims chose to eschew politics, to retain traditional methods and topics of Islamic education, and to return to a closer study of the Quran and both the actions and the sayings of the Prophet, Muhammad.³¹⁹ Shia religious scholars in Lucknow opened schools focused on traditional learning, but they also opened publishing houses, charities, and welfare organizations.³²⁰ Some Muslims fled to Ottoman lands, creating a moment of “unprecedented connectivity between the Ottoman and the British worlds,” which inspired resistance to British rule in Egypt, the creation of educational programs and the construction of constitutional analyses that influenced Ottoman imperial reforms, Muslim intellectual endeavors in India, and British fears.³²¹ One thing is clear: the Muslim “community” imagined by the British as monolithic was actually socially, politically, and intellectually variegated, and engaged with the world outside India.

This chapter examines the public-intellectual contributions of three South Asian Muslim modernists to debates about Islamic and Muslim history with respect to the

³¹⁸ Alam, *The Languages of Political Islam*; Gautam Chakravarty, *The Indian Mutiny and the British Imagination* (Cambridge, 2005).

³¹⁹ Metcalf, *Islamic Revival in British India*; Francis Robinson, *The ‘Ulama of Farangi Mahall and Islamic Culture in South Asia* (London, 2001); Muhammad Qasim Zaman, “Review Essay: Modernity and Religious Change in South Asian Islam.” *Journal of the Royal Asiatic Society*, 14 (2004), 253-263.

³²⁰ Justin Jones, *Shi’a Islam in Colonial India: Religion, Community and Sectarianism* (Cambridge, 2012), 114-146.

³²¹ Seema Alavi, *Muslim Cosmopolitanism in the Age of Empire* (Cambridge MA, 2015), 18; see, also, Cemil Aydin, *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (New York, 2007).

“Eastern Question,” the international and legal relations between the Ottoman empire and the European empires.³²² It argues that Sayyid Ahmad Khan (1817-1898), Syed Ameer Ali (1849-1928), and Maulvi Chiragh Ali (1844-1895) managed the situation of Indian Muslims described by Nehru, the transition from ruling to dispossession and incorporation into Britain’s imperial world system, by articulating what Nile Green has called an “imperial-Islamicate” model of order and governance.³²³ They reinterpreted Islamicate history to demonstrate the civilizational character of Indian Muslims as a people capable of progress and of reciprocity in relations with non-Muslims using the imperial vernacular of civilization and improvement.

One historian of South Asian Muslims, Mansoor Moaddel, noted that, “Islamic” modernists “attempted to address the intellectual problems that beset Islam as a result of the sweeping criticisms leveled against it by adherents” of other discourses, specifically, Enlightenment-influenced secularists, proponents of the modern bureaucratic state, and Christian missionaries.³²⁴ Muslim modernism better captures the sensibility of this chapter’s main characters. They were not, primarily, theologians. They were overtly

³²² Matthew Anderson, *The Eastern Question, 1774-1923: A Study in International Relations* (New York, 1966).

³²³ Nile Green, “Africa in Indian Ink: Urdu Articulations of Indian Settlement in East Africa,” *Journal of African History*, 53 (2012), 131-150. Green analyzes an imperial-Islamicate settler discourse that appeared fully formed in the travelogues of Muslim Indians writing about East Africa at and after 1900; see, for other borrowings of the concept, Soumen Mukherjee, “Universalising Aspirations: Community and Social Service in the Isma’ili Imagination in Twentieth-Century South Asia and East Africa,” *Journal of the Royal Asiatic Society*, 24 (2014), 435-453; James R. Brennan, “Constructing Arguments and Institutions of Islamic Belonging: M. O. Abbasi, Colonial Tanzania, and the Western Indian Ocean World, 1925-1961,” *Journal of African History*, 55 (2014), 211-228.

³²⁴ Mansoor Moaddel, *Islamic Modernism, Nationalism, and Fundamentalism: Episode and Discourse* (Chicago, 2005), 31.

concerned with the real-life problems of Muslim men and women resulting from misconceptions about Islam, the dispossession of Muslims' political power, and the educational, social, and political challenges faced by Muslims under direct British rule in India. The scientific, historical, and legal foundations of their reinterpretations of Islam were designed to meet, head on, British scientific approaches to municipal and international governance. Their historical concerns included issues that occupied British, and more broadly, western, legal thinkers in the nineteenth and twentieth centuries: the standard of civilization, the obligations of membership in international society, the relationship between states and peoples, interstate relations, peace, and the rules of war.

South Asians engaged the Eastern Question for multiple reasons. South Asian Muslims were subjects of the British empire and interested in imperial and international political matters that affected India. They were motivated by questions about the place of Muslims in the British empire, which were related to debates about the legitimacy of their Ottoman co-religionists' presence in Europe and the generally vitriolic British attitude toward Islam. South Asians were drawn within the ambit of the Eastern Question for both geopolitical and religious-civilizational reasons, but this chapter will focus on Muslim modernists' intellectual responses to the latter.

The story faces outward to focus on Christian-Muslim disputation and the modernists' efforts to craft a rational explication of Islam for non-Muslim audiences after 1857. They revised Europeans' historical analyses of Islam and Islamicate civilizations, the cultures and the societies associated with the religion of Islam and its adherents, to

argue for a more expansive and inclusive definition of international society, a definition that included space for Muslims as equal members. The story ends in the mid-1880s, with Britain's decisive rejection of Anglo-Ottoman entente under the leadership of Liberal Prime Minister William Gladstone (1809-1898) and rising fears of anti-imperial and anti-western pan-Islamicism.

Ahmad Khan, Ameer Ali, and Chiragh Ali used liberal politico-legal concepts to articulate an imperial-Islamicate model of global order, the latter two men explicitly engaging with international legal discourse.³²⁵ Their histories explained Islam as a civilizing theology that introduced legal and moral ideas and constraints into Arabian life and portrayed the early Muslim community as a force for the expansion of civil and political rights. Islam, in their historical narratives, provided a constitution for civilized social and inter-polity relations. These histories created an historical continuity in which Muslims were the imperial, civilizing predecessors of the British. This idea was coupled with positive assessments of British rule and achievements in India that served as an invitation to the British to see Indian Muslims as partners. Like Dadabhai Naoroji, these men acted as cultural translators and engaged with English-speaking, British audiences through their written work with the goal of shaping imperial political thought and governance. Again like Naoroji, they were recognized as public intellectuals and experts, so their ideas were actively debated as the British attempted to rule in India.

³²⁵ See, Green, "Africa in Indian Ink."

The Eastern Question and International Law in the Mid-Nineteenth Century

John Morley (1838-1923)—a journalist, politician, and the Secretary of State for India from 1905 until 1910—described the Eastern Question, in 1903, as a “shifting, intractable, and interwoven tangle of conflicting interests, rival peoples, and antagonistic faiths that is veiled under [an] easy name.”³²⁶ Norman Harris, more colloquially, called the matter a “whole knot of problems rolled into one.”³²⁷ Morley understood that diplomatic, legal, and military disputes were expressions of the “conflicting interests” that underlay the Eastern Question, and he also recognized that civilizational and religious entanglements made the Question as much about peoples as about states.

The Question arose, in part, from efforts to define the appropriate political place and legal status of the Ottoman empire in its relation to Great-Power politics in Europe, to extra-European imperial politics, and to the international-legal family of nations, which was supposed, by jurists, to be European and Christian. These efforts were complicated, throughout the nineteenth century and up to the First World War, by a belief in ongoing Ottoman imperial decline leading to imminent dissolution. Broadly, the Ottoman presence in Europe created two, intertwined political and ideological difficulties for British statesmen. The Ottoman empire ruled from Constantinople, an “incomparable

³²⁶ John Morley, *The Life of William Ewart Gladstone*, vol. I (New York, 1903), 476-477.

³²⁷ Norman Dwight Harris, *Europe and the East* (Cambridge, 1926), 25.

centre of imperial power standing in Europe but facing Asia,” and its imperial leaders ruled as “Mahometan masters over Christian races.”³²⁸

The “Turks” were believed to be barbarous infidels, the inheritors and perpetuators of a deficient civilization, and both religiously and racially inferior to white, Christian Europeans. Their presence degraded civilized, Christian Europe, and Ottoman rule over “Christian races” was increasingly perceived as a problem throughout the nineteenth century. Henry Wheaton denied the existence of any

universal, immutable law of nations binding upon the whole human race.... [T]he international law of the civilized, Christian nations of Europe and America, [was] one thing; and that which govern[ed] the intercourse of the Mohammedan nations of the East with each other, and with Christians, [was] another and very different thing.³²⁹

He admitted that Muslims, for example, might possess their own form of international law, but he excluded the “nations of the East” from the international legal protection afforded to civilized peoples by the Christian and European legal regime.³³⁰ The supposed characteristics of uncivilized, or backward, peoples—a “propensity for despotism” and capriciousness, an incapacity for reciprocity in relations with others, untrustworthiness, religious infidelity, and racial inferiority—meant they had not achieved the civilizational standard necessary to comprise a state that could participate as

³²⁸ Morley, *The Life of William Ewart Gladstone*, vol. I, 477.

³²⁹ Wheaton, *Elements*, 3rd edition, (1846), 40.

³³⁰ See, also, Bluntschli, *Theory of the State*, 110-111; Travers Twiss, *The Law of Nations Considered as Independent Political Communities* (Oxford, 1884), xxxix, 161, 464-465; Richard S. Horowitz, “International Law and State Transformation in China, Siam, and the Ottoman Empire in the Nineteenth Century,” *Journal of World History*, 15 (2004), 445-486.

an equal in the society of civilized states. These attitudes were common among nineteenth-century international political and legal theorists and colonial administrators, who faced the problem of justifying colonial rule.³³¹

The resolution of the Crimean War challenged these international civilizational and legal narratives. Robert Phillimore, as mentioned in chapter 1, argued that the Treaty of Paris admitted the Ottoman empire into the recognized family of nations. Some legal theorists, at this point, accepted that the western-European variant of international law, rooted in the idea of Christendom, had become universal.³³² Phillimore achieved this universality not by extending the boundaries of international law beyond its putative Christian foundation but by arguing that the treaty had created “the quasi-Christian *status* of the Turkish Empire.”³³³

This position was unconvincing for many jurists. James Lorimer wrote, “[t]o talk of the recognition of Mahometan States as a question of time [was] to talk nonsense” because the religion of Islam was “always false when seen from an international point of view.”³³⁴ He argued that the Ottoman sultan ought to be deposed and Constantinople

³³¹ Martti Koskenniemi, “Histories of International Law—Dealing with Eurocentrism,” *Rechtsgeschichte-Legal History*, 19 (2011), 152-176; Anghie, *Imperialism, Sovereignty and the Making of International Law*; Gong, *The Standard of ‘Civilization’*; Bowden, *The Empire of Civilization*; Pitts, “Empire and Legal Universalisms.”

³³² Hugh McKinnon Wood, “The Treaty of Paris and Turkey's Status in International Law,” *The American Journal of International Law*, 37 (1943), 262-274.

³³³ Phillimore, *Commentaries upon International Law*, iv.

³³⁴ James Lorimer, *Institutes of the Law of Nations*, volume I (Edinburgh, 1884), 123.

converted into a home for an international legislature, Christian and European.³³⁵ Most jurists were not so obviously bigoted, but they none the less leaned in the direction of Lorimer's opinion of the Ottoman empire, increasingly so throughout the nineteenth century, and Turkey's nominal inclusion in the family of nations did little to ease the slow-motion subjugation of the Ottoman state at the hands of the "civilized" powers.³³⁶

One scholar, Jennifer Pitts, described Lorimer's plan for Constantinople as approaching farcical. He argued that the rule of law—in the form of property rights, religious freedom, and low taxes—would attract "the whole yachting world" to the newly international city, thus increasing property values.³³⁷ Still, the reasoning underlying this implausible idea demonstrated the connection between international legal thought and the principles of disinterest, improvement, and moralism that formed the foundation of the domestic governing ethos. The next section follows the movement of "domestic" religious disputation in India into the realm of international relations and law regarding the Eastern Question.

³³⁵ James Lorimer, "Of the Denationalisation of Constantinople, and Its Devotion to International Purposes" In James Lorimer, *Studies National and International* (Edinburgh, 1890), 121-131, at 122.

³³⁶ See, Nobuyoshi Fujinami, "Georgios Streit on Crete: International Law, Greece, and the Ottoman Empire," *Journal of Modern Greek Studies*, 34 (2016), 321-342.

³³⁷ Pitts, "Boundaries of Victorian International Law," in Bell (ed.), *Victorian Visions of Global Order*, 85, fn. 23.

Religious Disputation, the Eastern Question, and International Law

Christian polemicists became active in South Asia after the review and revision of the East India Company's Charter in 1813 allowed missionary activity. Muslim intellectuals actively responded to negative portrayals of Islam and of non-Christians, generally. The Reverend Carl Pfander condemned Muslims as "foolish" for rejecting "the wisdom and the power of God revealed in the cross of Christ," arguing that a close reading of the Quran "refute[s] itself and the religion founded upon it."³³⁸ Elsewhere, he likened Quranic revelations to "false imaginations" in "the nature of fables."³³⁹ The Prophet, Muhammad, is supposed to have borrowed ideas and practices from the early Jews and Christians to create a sense of familiarity among idolaters, who were lured to Islam by the promise of multiple wives, easy divorce, and "a Paradise suited to man's lower nature, consisting of carnal delights and sensual pleasures."³⁴⁰ When these promises failed to attract followers, Muhammad gained converts through violence and fear.

William Muir, a member of the Indian Civil Service in Bengal, in a work encouraged by Pfander, allowed that Muhammad might have acted on super-natural guidance, but if so, his "ambition, rapine, assassination, [and] lust" prove the source to

³³⁸ C. G. Pfander, *Remarks on the Nature of Muhammadanism* (Calcutta, 1840), 40-41; see, also, Avril A. Powell, "Muslim-Christian Confrontation: Dr. Wazir Khan in Nineteenth-Century Agra," In Kenneth W. Jones (ed.), *Religious Controversy in British India: Dialogues in South Asian Languages* (Albany NY, 1992), 77-92; Avril A. Powell, *Muslims and Missionaries in Pre-Mutiny India* (Richmond, UK, 1993).

³³⁹ C. G. Pfander, *The Mizan ul Haqq: or, Balance of Truth*, trans. R. H. Weakley (London, 1866), ix.

³⁴⁰ C. G. Pfander, *The Mizan ul Haqq*, 125; see, R. W. Southern, *Western Views of Islam in the Middle Ages* (Cambridge MA, 1978), for an explanation of the longevity and durability of this narrative.

have been evil.³⁴¹ The Reverend Malcolm MacColl (1831-1907) was neither a missionary nor a civil servant but a Protestant evangelist who wrote about religious history and the public-affairs issues of the day. The British legal historian, Frederic Maitland, wrote, “Mr. MacColl has the public ear, and what he says, even by way of hypothesis, will soon be believed by the many.”³⁴² MacColl shared the opinions of Pfander and Muir regarding Islam and Muslims, and he was a friend of William Gladstone, with whom he corresponded regularly for decades.³⁴³

He intervened in the Eastern Question debates during the Eastern Crisis of 1875-1878, a series of uprisings among Ottoman Christians that started in Herzegovina in 1875 and spread to Serbia, Montenegro, and Bulgaria in 1876.³⁴⁴ The Crisis divided Liberal and Conservative opinion in Britain, with the former desiring intervention alongside Russia to protect Christians and the latter advocating support for Turkey based on fears of Russian expansion and pan-Slavism. MacColl entered the debate on the side of the interventionists, deriding Russophobia and arguing that alleged Turkish atrocities against Bulgarian Christians demonstrated the true nature of Islam and the barbarity of

³⁴¹ William Muir, *The Life of Mahomet and History of Islam, to the Era of the Hegira*, vol. II (London, 1858), 95.

³⁴² Frederic William Maitland, “Canon MacColl’s New Convocation,” in H. A. L. Fisher (ed.), *The Collected Papers of Frederic William Maitland, Downing Professor of the Laws of England*, vol. III (Cambridge, 1911), 119-136, at 119.

³⁴³ See, George W. E. Russell, (ed.), *Malcolm MacColl, Memoirs and Correspondence* (New York, 1914).

³⁴⁴ For the effects of the Crisis on later British imperial expansion, see, Leslie Rogne Schumacher, “A ‘Lasting Solution’: The Eastern Question and British Imperialism, 1875-1878,” Ph.D. Dissertation, The University of Minnesota (2012); see, for the general pattern of Anglo-Ottoman relations, M. Sukuru Hanioglu, *A Brief History of the Late Ottoman Empire* (Princeton, 2008); Suraiya Faroqui, *The Ottoman Empire and the World around It* (London, 2004).

Ottoman rule.³⁴⁵ MacColl's tendentious, anti-Muslim disputations underlay a politicized humanitarianism.³⁴⁶

A group of Bombay Muslims, including Badruddin Tyabji (1844-1906), the first Indian lawyer to practice at the Bombay High Court where he was later a judge, held a public meeting, also in 1876, to discuss the alleged Turkish atrocities in Bulgaria. They drafted, passed, and submitted to the Queen, in the name of 40 million South Asian Muslims, a petition requesting British neutrality and suggesting that the alleged atrocities were exaggerated for political purposes. They noted that, "the persistent efforts which certain interested Powers [had] made to bring about a downfall of the Turkish Empire... by charging it with atrocious and barbarous acts, [had been] gradually producing a revulsion of feelings on the part of some of your Majesty's Christian subjects."³⁴⁷ The interested Powers they mention were both foreign and domestic. The imagery of Turkish savagery towards Christians was used by British Liberals, most notably William

³⁴⁵ Malcolm MacColl, *The Eastern Question: Its Facts and Fallacies* (London, 1877); Malcolm MacColl, *The Eastern Question: The Three Great Perils of England* (London, 1877).

³⁴⁶ See, Georgios Giannakopoulos, "A British International Humanitarianism? Humanitarian Interventions in Eastern Europe (1875-1906)," *Journal of Modern Greek Studies*, 34 (2016), 299-320; Paul Auchterlonie, "From the Eastern Question to the Death of General Gordon: Representations of the Middle East in the Victorian periodical Press, 1876-1885," *British Journal of Middle Eastern Studies*, 28 (2001), 5-24; on the politicization of humanitarian concerns to serve religious objectives, see, Samuel Moyn, "The First Historian of Human Rights," *The American Historical Review*, 116 (2011), 58-79.

³⁴⁷ "Petition to Queen from Muslims Requesting Neutrality towards Turkish Empire and Describing Alleged Atrocities in Bulgaria as Exaggerated," 1876, BL, A/1/115, at paragraph 3.

Gladstone and members of the Eastern Question Association, and by Russia, alongside ideas about pan-Slavism, to mobilize support for intervention in the Ottoman empire.³⁴⁸

John Marriott defined the Eastern Question as “the clash in the lands of South-Eastern Europe between the habits, ideas, and preconceptions of the West and those of the East.”³⁴⁹ He placed the geographic origin of “the clash” between “West” and “East” in the European lands of the Ottoman empire, the Balkans. This was understandable.

Marriott wrote in Britain in the middle of the First World War. Popular debates about the Ottoman empire in Europe had been widespread in Britain since the 1870s, and it was a foreign-affairs issue that influenced parliamentary elections.³⁵⁰ The Ottoman empire and Islam were common topics in the Victorian periodical press, and the content was almost uniformly derogatory.³⁵¹ Discussions in the press and among the public had been dominated by allegations of Ottoman atrocities and humanitarian disasters, and by debates about the duty of civilized, Christian states to intervene.³⁵²

³⁴⁸ W. E. Gladstone, *The Bulgarian Horrors and the Question of the East* (London, 1876); *Papers on the Eastern Question* (London, 1877); see, Richard Shannon, *Gladstone and the Bulgarian Agitation 1876* (London, 1963); C. Brad Fought, “An Imperial Prime Minister? W.E. Gladstone and India, 1880-1885,” *The Journal of the Historical Society*, vi (2006), 555-578; Hans Kohn, *Pan-Slavism: Its History and Ideology* (Notre Dame, 1953); Lenard J. Cohen, “Russia and the Balkans: Pan-Slavism, Partnership and Power,” *International Journal*, 49 (1994), 814-845; Louis Levine, “Pan-Slavism and European Politics,” *Political Science Quarterly*, 29 (1914), 664-686.

³⁴⁹ J. A. R. Marriott, *The Eastern Question; An Historical Study in European Diplomacy* (Oxford, 1917), 1.

³⁵⁰ Leslie Rogne Schumacher, “A ‘Lasting Solution’: The Eastern Question and British Imperialism, 1875-1878,” Ph.D. Dissertation, The University of Minnesota (2012).

³⁵¹ Auchterlonie, “From the Eastern Question to the Death of General Gordon.”

³⁵² David Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815-1914* (Princeton, 2015); Georgios Giannakopoulos, “A British International Humanitarianism? Humanitarian Interventions in Eastern Europe (1875-1906),” *Journal of Modern Greek Studies*, 34 (2016), 299-320; Michelle Tusan, “‘Crimes against Humanity’: Human Rights, the British Empire, and the Origins of the Response to the Armenian Genocide,” *American Historical Review*, 119 (2014), 47-77.

The Bombay Muslim petitioners used international legal language to circumvent the claims of the propagandists. They argued that the war in Turkey had been started by vassals of the Turkish empire and was, therefore, a civil war, or revolt. Russia, first surreptitiously and then openly, supported the rebels to undermine the Ottoman empire. They attributed British allegations of Turkish atrocities to a desire to remove the current, Conservative British government and to expel Turkey from Europe and encouraged the Queen to avoid violating the provisions of the Treaty of 1856, which had ended the Crimean War and invited Turkey into the European family of nations subject to international law.

The Conservative government of Prime Minister Benjamin Disraeli already leaned in the direction of the Bombay petitioners and supported the Ottoman empire throughout the Crisis. The government threatened military intervention in 1878 to convince the Russians that it was serious about defending British and Ottoman interests. The India Office moved South Asian troops to Malta, in conjunction with the War and Foreign Offices and without Parliamentary approval. The troops returned to India, but only after lengthy debates in the Houses of Lords and Commons about the constitutional legality of the India Office's action. This disputation recapitulated the dispute about the Abyssinian expedition with Naoroji's earlier, unsuccessful reasoning carrying the day in

1878, but the Crisis initiated a period of steady deterioration in Anglo-Ottoman relations, which accelerated after Gladstone became prime minister in 1880.³⁵³

This was the context for the intellectual work of Sayyid Ahmad Khan, Syed Ameer Ali, and Maulvi Chiragh Ali. The international legal settlement of the Crimean war and the Queen's Proclamation of 1858 were hopeful signs of what might be possible for South Asian Muslims. They attempted to fulfill those hopes until the mid-1880s, when the Liberals assumed power and the British relationship with the Ottoman empire began its irreparable decline.

Sayyid Ahmad Khan

The progenitor of Muslim modernism, Sayyid Ahmad Khan, was forty years old and working for the East India Company as a district judge in Bijnor at the time of the revolt in 1857. He risked his own safety to protect the British residents of the district, winning praise and respect. He became unsettled when the British, in his opinion, persecuted Muslims, whom they believed had instigated the uprising. He attempted to disabuse the British of the notion that the revolt had been planned by the Muslims, shifting the burden to the East India Company's exclusion of South Asians from positions of responsibility in government. He wrote, "[m]ost men, I believe, agree in thinking that it is highly conducive to the welfare and prosperity of Government: indeed it is essential

³⁵³ *Hansard's Parliamentary Debates, Third Series*, volume 240 (London, 1878), e.g., Lord Selborne in the House of Lords, May 20, 1878, col. 187-211; Marquess of Harrington in the House of Commons, May 20, 1878, col. 264-280; Mr. Newdegate in the Commons, May 21, 1878, col. 415-422; Mr. Childers in the Commons, May 23, 1878, col. 431-437; Mr. Newdegate in the Commons, May 27, 1878, col. 780-786.

to its stability that the people should have a voice in its Councils.”³⁵⁴ More directly, “[t]he men who have ruled India should never have forgotten that they were here in the position of foreigners, that they differed from the natives in religion, in customs, in habits of life and thought.”³⁵⁵

He also highlighted the distinction between the past practices of Muslim rulers, for whom proselytizing was unimportant, and the British, who foisted Christianity on South Asians as part of a “civilizing duty.” In a preview of Chiragh Ali’s explanation about the effects of British condescension, Sayyid Ahmad identified the pernicious results of civilizational discrimination as one of the underlying causes of the refusal to allow Indians to serve in government, writing, “[dishonoring us] is a thing that without producing any perceptible injury builds malice and enmity in the heart, and wounds so deeply that nothing heals the heart.”³⁵⁶

Despite his disagreement about the causes of the revolt, he continued working for the British-Indian government until his retirement in 1876. He was appointed to serve on the Viceroy’s legislative council in 1878, which allowed him to discuss and question the policy decisions of the government and to advise the Viceroy. The appointment, like the appointment of Ameer Ali in 1883, recognized Sayyid Ahmad’s public-intellectual stature and his willingness to cooperate with the British rulers of India. Firsthand experience of

³⁵⁴ Sir Syed Ahmad Khan Bahadur, *The Causes of the Indian Revolt* (Lahore, 1858), 15; Sir Syed Ahmad Khan, *Causes of the Indian Revolt; Three Essays*, ed. S. al-Din Quraishi (Lahore, 1997 [1858]).

³⁵⁵ Syed Ahmad Khan, *The Causes of the Indian Revolt*, 15.

³⁵⁶ Syed Ahmad Khan, *The Causes of the Indian Revolt*, 46.

the violent revolt and its brutal aftermath led him to believe that the pre-revolt days of Muslim rule in South Asia were gone forever. The fear of Muslims' religious "duty to rebel" against non-Muslim rulers was a common feature of British thought for at least two decades following the revolt. Sayyid Ahmad disputed the misunderstanding into the 1870s.³⁵⁷ He argued instead that the British had disregarded the needs of the people and had failed to communicate their intentions as leaders.³⁵⁸ He criticized the British turn away from indigenous knowledge and towards a scientific, statistical, disinterested governing philosophy. The devaluation of indigenous knowledge, not religion, was the problem.³⁵⁹

He espoused a desire for close cooperation with the British, an interpretation of Islam steeped in a worldview emphasizing natural-scientific inquiry, and a belief that educational progress would improve the future for Muslims. He attributed the expansion of British rule to scientific and technological advancement, and he sought to correct the view of those who saw an incommensurability between Islam and modern science. The study of science and technology were not contrary to Islam; in fact, he argued, the study of the natural world, created by God, was the study of Islam.³⁶⁰ Sayyid Ahmad believed that all of nature was vested with the unity of God and the spirit of the Quran. He sought

³⁵⁷ Sir Syed Ahmad Khan, "On Wahabism," Letter to the Editor of the *Pioneer*, March 31, 1871, in Shan Muhammad (ed.), *Writings and Speeches of Sir Syed Ahmad Khan* (Bombay, 1972), 237-239.

³⁵⁸ Sir Syed Ahmad Khan Bahadur, *The Causes of the Indian Revolt* (Lahore, 1858); Sir Syed Ahmad Khan, *Causes of the Indian Revolt; Three Essays*, ed. S. al-Din Quraishi (Lahore, 1997 [1858]).

³⁵⁹ See C. A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge, 1996), 315-337.

³⁶⁰ Christian W. Troll, *Sayyid Ahmad Khan: A Reinterpretation of Muslim Theology* (New Delhi, 1978).

to reconcile religious knowledge and the laws of nature, believing that while the Quran was infallible, man's understanding of the Quran was not. He believed that the "Western," empirical, scientific method could improve Muslims' understanding of the Quran. The laws of nature and the Quran could never be in conflict, he maintained, so empirical study of the world could correct human misapprehensions of the Quran.³⁶¹

He also stressed the pragmatism of Islam. His goal for Indian Muslims was not that they adopt wholesale the beliefs and traditions of the British but that they become educated and able to assume a place within the British establishment. This was never a call to mimicry. Sayyid Ahmad thought that Muslims needed to study "modern" subjects in order to succeed in the world—to adapt to economic, political and social realities—while studying Islamic ideas and ideals in vernacular languages to remain good Muslims.³⁶² His "modernism" as it is often called, was not a simple imitation of Western ideas but had its roots in indigenous movements of reform" and in the historical reactions of the Muslim elite to new rulers.³⁶³ He viewed the religiously based opposition to modern education as a reactionary misinterpretation of the Quran based on non-religious accretions. His theological ideas were designed to wipe away these accretions, and his harkening back to the early days of Islam and to Quranic primacy was a technique shared

³⁶¹ Ahmad, *Islamic Modernism in India and Pakistan*; Moaddel, *Islamic Modernism, Nationalism, and Fundamentalism*.

³⁶² Syed Ahmed Khan Bahadur, *Translation of the Report of the Members of the Select Committee for the Better Diffusion and Advancement of Learning among Muhammedans of India* (Benares, 1872); David Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India* (New Delhi, 1978).

³⁶³ Metcalf, *Islamic Revival in British India*, 323.

by reformers throughout the Islamic world in the eighteenth and nineteenth centuries.³⁶⁴

Sayyid Ahmad's faith in Western education led him to found the Muhammadan Anglo-Oriental (MAO) College, which later became Aligarh University and was modeled on the residential colleges at Oxford and Cambridge that Sayyid Ahmad had visited during a tour of Britain in 1869 and 1870.³⁶⁵

Sayyid Ahmad attracted followers from among wealthier Muslims and Muslim princely rulers like those in Bhopal and Hyderabad. The college at Aligarh initially catered to this group, although he desired to expand the provision of education to all Muslims. Some of his followers formed less radical re-conceptions of Islam by focusing on the culture of the Abbasid Empire, with its patronage of scientific learning, cultural openness, and artistic freedom. This way of thinking tended to be more palatable both to the British, who were afraid of a "radical" Islam, and to conservative religious scholars. The main contribution of Sayyid Ahmad and Aligarh, in this vein, was the intellectual revivification of the Islamic and the Islamicate heritage and the encouragement to Muslims to work actively to define their destiny as Indian Muslims. The roots of this definition were to be found in the ways of adapting to non-Muslim rule and required the reinterpretation of an Islam compatible with current circumstances.

Sayyid Ahmad's main work of note, prior to 1857, was a history of the people and monuments of Delhi, entitled *Athar al-Sanadid*, published for the first time in 1847 and

³⁶⁴ Nehemia Levtzion and John O. Voll (eds.), *Eighteenth-Century Renewal and Reform in Islam* (New York, 1987); Metcalf, *Islamic Revival in British India*.

³⁶⁵ Lelyveld, *Aligarh's First Generation*.

in a significantly revised version in 1854. The first version represented, stylistically, a long-standing “manner of topographical and biographical writing in Persian.”³⁶⁶ Events between publication dates offer some understanding of the more direct style of Sayyid Ahmad’s language in future work. The Royal Asiatic Society, which from its founding had allowed Indian scholars to contribute work even while denying them membership, had increased its efforts to publish work by Indian authors in 1850 and began offering honorary memberships to Indians to elicit their scholarship. The Society had expressed an interest in publishing a new edition of Sayyid Ahmad’s history, and he worked extensively with Mr. A. A. Roberts, the Collector and Magistrate of Shahjahanabad, to improve the chronology and evidentiary basis for *Athar al-Sanadid*.

Sayyid Ahmad’s relationship with the British was developing during these years through his work in the Civil Service, and his self-directed studies were continuing. His work with the Royal Asiatic Society furthered his interest in history as a means of understanding the world of nineteenth-century India, but the work was also meant to “serve as a lesson to mankind, [showing] that once mighty rulers now lie helplessly in dust. Such is the fate of mankind. Its study will awaken, enrich, refurbish, and enlighten man’s knowledge and wisdom.”³⁶⁷ *Athar al-Sanadid* also provides insights into Sayyid Ahmad Khan’s religious affiliations. In his descriptions of Delhi life, the scholars who

³⁶⁶ C. W. Troll, “A Note on an Early Topographical Work of Sayyid Ahmad Khan: *Asar al-Sanadid*,” *Journal of the Royal Asiatic Society*, 2 (1972), 134.

³⁶⁷ Quote in J. A. Khan, “Sir Syed Ahmad Khan as a Historian,” *Journal of the Pakistan Historical Society*, 44 (1996), 181.

are the focus of his spiritual loyalty are brought to the fore; others receive short descriptions or escape mention altogether.³⁶⁸

Other Muslim intellectuals did not necessarily share his belief in the importance of historical studies, but it was Sayyid Ahmad Khan's appreciation of history that shaped his response to social, political and cultural events after the revolt and that underlay his refutations of Christian polemicists. In 1870, the year he returned from Britain, he published *A Series of Essays on the Life of Mohammed and Subjects Subsidiary Thereto*. The essays were written in an historical style, with attention to chronology and evidentiary detail, and they often illuminate his theological predispositions. He focused on the Quran as the sole source of revealed guidance for Muslims and distinguished between secular and religious aspects of Quranic injunctions.

Certain injunctions were valid only during the Prophet's life, a view opposed by some Muslim religious scholars. Sayyid Ahmad wrote, "we find some of [the sayings and deeds] of our Prophet relating to religion, others connected with the peculiar circumstances of his life, some bearing upon society in general, and others, again, concerning the art of government."³⁶⁹ Although Muslims were obligated to follow the example of the Prophet, the obligation only extended to matters "relative to religion

³⁶⁸ Bruce Lawrence, "Mystical and Rational Elements in the early Religious Writings of Sir Sayyid Ahmad Khan", In Bruce Lawrence (ed.), *The Rose and the Rock: Mystical and Rational Elements in the Intellectual History of South Asian Islam* (Durham NC, 1979), 61-104.

³⁶⁹ Sayyid Ahmad Khan, "Essay on Mohammedan Traditions," In Syed Ahmad Khan Bahador, *A Series of Essays on the Life of Mohammed and Subjects Subsidiary Thereto*, vol. I (Delhi, 1981 [1870]), 2.

exclusively.”³⁷⁰ Recalling his post-revolt critique of British rule in India, he criticized the Ottoman rulers for ignoring this principle and courting stagnation by confusing religious and secular laws and failing to uphold the “rights of its subjects to free and equal expression of opinion, to free and equal exercise of their own religion and to peaceful enjoyment of their property.”³⁷¹

Sayyid Ahmad averred that studying historically accurate collections of the sayings and deeds of the Prophet assisted Muslims who were seeking to live properly. The reliance of ordinary people on these collections, however, required scholars to recognize the distinctions between religious and non-religious injunctions so that modern Muslims could take account of their own “peculiar circumstances.” The essay on Muslim traditions aimed specifically to refute the work of William Muir, Sayyid Ahmad’s fellow member of the Indian Civil Service. Muir was well known for his scholarship on Islamic history, regarded as contentious but authoritative, and for his work on the education system in India.³⁷² Sayyid Ahmad appreciated Muir’s efforts to return to the use of Persian in higher education, but he was skeptical of Muir’s evangelizing tendencies and Muir’s belief that Christianity underlay British social reform and civilizing efforts. Sayyid Ahmad “regret[ed]” the need to point out that, “the entire character” of Muir’s study of Muhammad’s life demonstrated a failure to arrive “at any conclusion by an

³⁷⁰ Sayyid Ahmad Khan, “Essay on Mohammedan Traditions,” 3.

³⁷¹ Hardy, *The Muslims of British India*, 101.

³⁷² Avril A. Powell, “Muir, Sir William (1819–1905),” *Oxford Dictionary of National Biography* (Oxford, 2004), [<http://www.oxforddnb.com.ezproxy.lib.utexas.edu/view/article/35144>, accessed 27 April 2015].

unprejudiced and candid investigation” or to use “fair, just, and legitimate reasoning” because “his mind was prepossessed by the idea that all these traditions were nothing else than mere fabrications or inventions of the narrators.”³⁷³ Sayyid Ahmad marshaled the work of European historians to criticize Muir, leveraging their credibility to support his critique.

Elsewhere, Sayyid Ahmad used the same techniques of close reading, historical analysis, and the citation of competing analyses to criticize Muir’s views of Islam regarding polygamy, divorce, slavery, and the freedom of judgement in religious matters.³⁷⁴ Sayyid Ahmad accepted the formative or foundational role of Judaism and Christianity for Islam, but he described the relationship among the revelations on which these traditions were based as not merely successive but progressive. The Quran and the practices of the Prophet reduced polygamy and divorce, nearly eliminated slavery, and encouraged rational thought, all of which advanced goals of peace and justice. Muslims in South Asia were, therefore, the inheritors of civilizational greatness and equal to the British. Syed Ameer Ali and Maulvi Chiragh Ali followed Sayyid Ahmad’s lead in their historical scholarship.

³⁷³ Sayyid Ahmad Khan, “Essay on Mohammedan Traditions,” 17.

³⁷⁴ Sayyid Ahmad Khan, “Essay on the Question Whether Islam has been Beneficial or Injurious to Human Society in General, and to the Mosaic and Christian Dispensations,” In Syed Ahmad Khan Bahador, *A Series of Essays on the Life of Mohammed and Subjects Subsidiary Thereto*, vol. I (Delhi, 1981 [1870]).

Syed Ameer Ali's Early Work

Ameer Ali was born in Bengal in 1849 into a wealthy, land-owning family. His father decided to seek English-language education for his children, and Ameer Ali was the first Muslim to receive an M.A. degree in history and political economy from Calcutta University.³⁷⁵ He received a scholarship to study law in London and left India for Britain in 1869, staying three days in Ottoman Egypt as he traveled overland because the Suez Canal had not yet opened.³⁷⁶ The London community of Indians was substantial and active.³⁷⁷ The London Indian Society had been founded in 1865 by Dadabhai Naoroji. Ameer Ali participated in the National Indian Association, founded in 1871, which published the *Handbook of Information relating to University and Professional Studies, etc., &c. for Indian Students in the United Kingdom* and brought “Indian students and visitors from India in touch with English social life.”³⁷⁸

Ameer Ali also entered the well-connected intellectual and political stratum of British society. The Viceroy, Lord Mayo had provided Ameer Ali with letters of

³⁷⁵ S. V. FitzGerald, “Ameer Ali, Saiyid (1849–1928),” rev. Roger T. Stearn, *Oxford Dictionary of National Biography* (Oxford, 2004); online edn, Oct 2008 [<http://www.oxforddnb.com.ezproxy.lib.utexas.edu/view/article/30400>, accessed 8 April 2012].

³⁷⁶ Syed Ameer Ali, “Memoirs of the Late Rt. Hon’ble Syed Ameer Ali,” part I, *Islamic Culture*, 5 (1931), 509-542, at 524 and 530-531. Ameer Ali’s memoirs were written after his death by his wife and youngest son using Ameer Ali’s personal papers, most of which were then destroyed, as Ameer Ali had requested. The memoir was published in five parts, in successive issues of the journal, *Islamic Culture*, which was published through the patronage of the Nizam of Hyderabad. The entire memoir is reprinted in K. K. Aziz (ed.), *Ameer Ali: His Life and Work* (Lahore, 1968).

³⁷⁷ Gail Minault, *Secluded Scholars: Women’s Education and Muslim Social Reform in Colonial India* (Delhi, 1998), 192-197; Rozina Visram, *Asians in Britain: 400 Years of History* (London, 2002); Michael Fisher, Shompa Lahiri, and Shinder Thandi, *A South-Asian History of Britain: Four Centuries of Peoples from the Indian Sub-Continent* (Oxford, 2007).

³⁷⁸ Syed Ameer Ali, “Memoirs,” 538.

introduction, and he used this opportunity to begin his life-long engagement with imperial and international politics. He began relationships with numerous Britons who shared his reformist leanings: Charlotte Manning, social and educational reformer, and, along with Mary Carpenter, founder of the National Indian Association; Liberal politicians John Bright and Henry Fawcett, and Fawcett's wife, Millicent, who were active in the peace and women's suffrage movements; Thomas Taylor, an industrialist who owned coal mines and cotton mills in northern Britain; Sir Frederick Halliday, Lt.-Governor of Bengal during the 1857 revolt; and Lord Salisbury, then Secretary of State for India.

Ameer Ali shared, debated, and wrote about many of the same current events and issues that motivated this group: peace, the status of women, and education.³⁷⁹ He developed a close relationship with James Bryce, the British jurist, historian and Liberal politician, but they fell out over significant disagreements about the treatment of Armenians by the Ottomans during the Eastern Crisis of 1875-1878. American abolitionist and Unitarian clergyman, Daniel Conway, who met Ameer Ali in London and later in India, recalled his "beautiful spirit" and wrote about Ameer Ali's first book that, "it raised all Islam—which I had deemed a hard eastern Calvinism—in my esteem that such a man could love it, and draw so much truth and beauty out of it."³⁸⁰

³⁷⁹ "National Society for Women's Suffrage," *Manchester Times*, April 2, 1870, 644; "Indian Education," *Liverpool Mercury*, December 24, 1873, 8090. The foregoing citations provide examples of Ameer Ali's involvement in public debates about women's suffrage and education.

³⁸⁰ Moncure Daniel Conway, *My Pilgrimage to the Wise Men of the East* (Boston, 1906), 252; Syed Ameer Ali, *The Critical Examination of the Life and Teaching of Muhammad* (London, 1873).

Ameer Ali worked as an apprentice in a law office while meeting the requirements to be called to the bar. British-trained, South Asian lawyers were beginning to work as legal professionals in increasing numbers in the 1870s, so when he was called to the bar at Inner Temple in January 1873, more opportunities existed than previously.³⁸¹ He established a successful legal practice in Calcutta and lectured on law at Calcutta University, including delivering the prestigious Tagore Law Lectures in 1884 on the “Mahommedan” Law related to gifts, trusts, and wills. He spent vacation periods in Britain, where he met, in 1880, and married, in 1884, a British woman, Isabell Konstam.

He served as the Presidency Magistrate (1878) and the Chief Magistrate (1879-1881) in Bengal, a member of the Bengal legislative council (1878-1883), a member of the Viceroy’s legislative council (1883-1885), and a judge on the Calcutta High Court (1890-1904). He resettled in Britain after his retirement, remaining active in Indian and international affairs through his writing and advocacy and with the Woking and East London mosques. He was the first South Asian judge appointed to the Judicial Committee of the Privy Council, the highest court of appeals for colonial cases, in 1909, and he heard Indian appeals until shortly before his death in 1928.

Ameer Ali was one of many Shia Muslims who were part of the Calcutta school of modernity, westernization, and loyalism.³⁸² His work was characterized by scriptural

³⁸¹ Mitra Sharafi, “A New History of Colonial Lawyering: Likhovski and Legal Identities in the British Empire,” *Law & Social Inquiry*, 32 (2007), 1059-1094; Nandini Chatterjee, “Law, Culture, and History: Ameer Ali’s Interpretation of Islamic Law,” In S. Dorsett and J. McLaren (eds.), *Legal Histories of the British Empire: Laws, Engagements and Legacies* (Abingdon UK, 2014), 45-59.

³⁸² Rafiuddin Ahmed, *The Bengal Muslims 1871-1906: A Quest for Identity* (New Delhi, 1981).

fundamentalism, a view that the Quran was the sole source necessary to understand Islam, something common among Muslim modernists but also in other religious reform movements. He participated in the Muslim-Christian polemical debates in Bengal in the nineteenth century, re-examining Islamic history and championing Islam's ethical standards.³⁸³ He became a leader of an intellectual, pan-Islamic movement for the defense of Islam in the West. Abdullah Yusuf Ali (1872-1953), a later Muslim modernist, remembered Ameer Ali "as a Muslim jurist, as an interpreter of modernism in Islam... and as a worker in the cause of Islam in the larger movements, political, social, and international."³⁸⁴

Islamic law, for Ameer Ali, was an international system of jurisprudence and not limited by a circumscribed body of texts. He used hadith collections (traditions) as records of events tied to their time. He believed that the law changed and scholars had to read widely and keep up with new knowledge. Ameer Ali had mastered the British style of legal argumentation, which he combined effectively with his knowledge of Islamic history and religious law as a judge. He believed that Hindu and Islamic laws formed a crucial part of the British legal system in India. He was criticized by some Muslim jurists for straying too far from historical interpretations of Islamic jurisprudence.³⁸⁵

³⁸³ Rafiuddin Ahmed, "Muslim-Christian Polemics and Religious Reform in Nineteenth-Century Bengal: Munshi Meheru'llah of Jessore," In Kenneth W. Jones (ed.), *Religious Controversy in British India: Dialogues in South Asian Languages* (Albany NY, 1992), 93-120.

³⁸⁴ A. Yusuf Ali, "The Right Hon Syed Ameer Ali," *Journal of the Royal Asiatic Society of Great Britain and Ireland*, 4 (1928), 986-989, at 986.

³⁸⁵ Jones, *Shi'a Islam in Colonial India*.

Ameer Ali's modernist project treated law as a living, changing body of knowledge, properly adapted to changing circumstances and modified by judicial reasoning. Proper legal decisions rested, in large part, on accurate knowledge of both "Musulman Jurisprudence" and "Musulman manners, customs and usages."³⁸⁶ The foundations of accurate knowledge of the law were to be found in the history of Islam, primarily in the "Koranic laws and the traditional sayings of the Prophet," but as Ameer Ali notes, the expansion of Islam into new settings meant that one also had to seek accurate knowledge in "Baghdad, in Bokhara, in Syria, in Andalusia and Persia," as well as in South Asia.³⁸⁷ He shared an "evolutionary-progressive historical" approach to the law with many of his contemporaries, including Henry Maine.

Maine, famous for his work *Ancient Law*, published in 1862, had returned to Britain for an academic appointment at Oxford in the same year Ameer Ali arrived in London for the first time. The men possessed different understandings of evolution. Maine imagined civilizations traversing an evolutionary spectrum, whereas Ameer Ali refused to see civilizations as trapped in amber and placed the onus on legal theorists, lawyers, and legislators to create legal order based on historical knowledge and current circumstances. Ameer Ali possessed a progressive sensibility and a belief in the goal of improvement. Circumstantial differences among civilizations or cultures were not

³⁸⁶ Syed Ameer Ali, *The Personal Law of the Mahommedans (According to All the Schools), Together with A Comparative Sketch of the Law of Inheritance among the Sunnis and the Shiahhs* (London, 1880), vi.

³⁸⁷ Syed Ameer Ali, *The Law Relating to Gifts, Trusts, and Testamentary Dispositions among Mahommedans* (Calcutta, 1885), 5.

indicative of a need for governance rooted in an idea of trusteeship but merely of the need among leaders for accurate knowledge of the population.

Aziz Ahmad judges Ameer Ali's "principal contribution" to the Muslim modernist project to be "his re-statement of the history of Islam for consumption in the west."³⁸⁸

Ameer Ali's historical work demonstrated a mastery of language and argumentation that he paired with a modernist reinterpretation of Islamic history. His first book, *A Critical Examination of the Life and Teachings of Mohammed*, was published in London to mixed reviews shortly before his return to India in 1873. An anonymous reviewer in "The Athenaeum" described it as "the work of a beginner... heaped together in so confused and injudicious a manner that we should not suspect the author of a deep acquaintance" with his sources, although the anonymity of the reviewer makes it difficult to judge the objectivity of this assessment.³⁸⁹

A German Orientalist, Theodor Noldeke, was more positive, but mainly because Noldeke was impressed by "the remarkable and welcome indication of the growing influence exercised by modern European ideas amongst certain circles of Indian Mohammedans." Ameer Ali's argumentative strategy, he wrote, "softens or evades whatever is unfavourable to Mohammed," describing this strategy as "a skill which betrays the practiced lawyer."³⁹⁰ Noldeke's comment about the dissemination of modern

³⁸⁸ Ahmad, *Islamic Modernism in India and Pakistan*, 87.

³⁸⁹ "A Critical Examination of the Life and Teachings of Mohammed," *Athenaeum*, 2390 (1873), 204.

³⁹⁰ Th. Noldeke, "A Critical Examination of the Life and Teachings of Mohammed," *Academy*, 4 (1873), 207-209.

ideas reiterated the accepted conflation of modern and European. Modern ideas could only spread outwards from Europe. Ameer Ali's method of historical writing may have been characteristic of responses to modernity, but his participation in the debate, and his contribution of a South Asian perspective on Islamic sources, challenges the unidirectional flow of ideas that Noldeke describes.

Ameer Ali directly challenged critics of Islam, arguing repeatedly for the superiority of Islam and Muhammad. Christianity, Jesus, and Judaism were incomplete. He was aggressive when discussing historical Christianity, turning missionaries' assessments of Islam against them. He argued that early Judaism and Christianity displayed instances of immorality, cruelty, intolerance, that Christianity raised no protest against slavery. He believed that, historically, Christians might have disagreed among themselves but were unified in denying rights to non-Christians, whereas Islam opposed isolation and exclusivity. The Church had been guilty of a continuous "infringement of international duties" because of its constant refusal to recognize non-Christians' "claims of humanity."³⁹¹ This was poor recompense for Muslims to whom Christendom owed the preservation of its intellectual and cultural heritage.

Like Sayyid Ahmad, he posited that the status of women and slaves, according to the Quran, was always higher than allowed in the Bible. Polygamy and slavery were pre-Islamic, cultural remnants, accepted by other religious communities but regulated into near nonexistence by Muhammad, who had united ethics and law. Ameer Ali followed

³⁹¹ Syed Ameer Ali, *The Spirit of Islam: A History of the Evolution and Ideals of Islam, with a Life of the Prophet* (London, 1978 [1922]), 211.

Sayyid Ahmad to assert that Islam treated women more favorably than other religions, but allowed that the condition of women in advanced countries was better than that of Muslim women in India.³⁹² The disjuncture between the Quran and the contemporary situation of Muslims drove his belief in the need for internal religious reform. Renewal was possible because, like the common law, Islamic law evolved; “the compatibility of the laws of Mohammed with every stage of progress shows their founder’s wisdom. The elasticity of the laws is the great test of their beneficence and usefulness.”³⁹³

Ameer Ali’s polemics went beyond responses to critical portrayals of discrete issues related to Islam and the Prophet. He crafted a political theory of Islam and Muslim civilization. Muhammad, based on Quranic revelation, created a composite Muslim commonwealth, uniting various peoples, or nations, within a single state based on a shared allegiance to Islam. The multi-ethnic and religious nature of the commonwealth embodied a distinction between nations and states that was a feature of nineteenth-century international jurisprudence.³⁹⁴ Unification did not occur “by the sword,” as was often argued by Christian polemicists, but through negotiation and treaty-making. Treaty violations were met with mercy, and for the peoples newly integrated into the *umma*, the community of Muslims, the protection of civil, political, and religious rights were

³⁹² See, Gail Minault, “Sir Sayyid on ‘the present state of education among Muhammadan females’,” In Yasmin Saikia and M. Raisur Rahman (eds.), *The Cambridge Companion to Sayyid Ahmad Khan* (Cambridge, 2019), 55-68; Asiya Alam, “Polygyny, Family and Sharafat: Discourses amongst North Indian Muslims, circa 1870-1918,” *Modern Asian Studies*, 45 (2011), 631-668.

³⁹³ Syed Ameer Ali, *A Critical Examination of the Life and Teaching of Muhammad* (London, 1873), 227.

³⁹⁴ Henry Wheaton, *Elements of International Law*, Ed. Richard Henry Dana, 8th ed. (Boston, 1866), 30-31.

enforced. Ameer Ali's word choices, here, offer interesting examples of his attempts to write for contemporary, English-speaking, educated audiences. The *umma* became a Muslim commonwealth, and his description of *dhimmis*, or "protected peoples," as individual, rights-bearing subjects of that commonwealth was distinctly modern.

He also argued that the Quran condemned aggressive war and conquest. Ameer Ali responded to contemporary debates about the supposed religious duty of Muslims to rebel against the British, or any non-Muslim rulers, by arguing that the distinction between *dar ul-harb* (House of war) and *dar ul-Islam* (House of peace) identified only the condition of belligerency—a time of war versus a time of peace—and was not a judgment of non-Muslim rulers, generally.³⁹⁵ Islam was a religion of humanity, practical charity, and political liberty. His arguments were framed in the language of comparison, of history and of civilization. The goal was to demonstrate that the contemporary arguments for the exclusion of Muslims from the purview of civilized, international society were historically problematic, an underlying goal similar to the one that motivated Charles Alexandrowicz's argument regarding the exclusion of colonial South Asians from the family of nations in the nineteenth and twentieth centuries.

Historical unity served as an example of the potential for unity among Muslims in India across sectarian divisions but also for the unity of Muslims throughout the world across modern, national-territorial boundaries. Ameer Ali described an international

³⁹⁵ W. W. Hunter, *The Indian Musalmans: Are They Bound in Conscience to Rebel Against the Queen?* (London, 1871); see, also, the same argument in Sayyid Ahmad's response to Hunter, *Review on Dr. Hunter's Indian Musalmans: Are They Bound in Conscience to Rebel against the Queen?* (Benares, 1872).

system of greater flexibility than the politicians and jurists of his day. Subjects and citizens ought to demonstrate loyalty to the state and follow the just laws of the state, but national affiliative communities were equally legitimate entities and could cut across state boundaries. This was not an anti-imperial, anti-colonial, or separatist stance. Ameer Ali accepted and was content with British rule in South Asia. It was a strategy to leverage and increase political power within India and the empire, much like the later Khilafat movement (1919-1924).³⁹⁶ The trans-state unity of the Muslim community cut against Indian Muslim minority status. This unity could then be leveraged in dealings with the British, who, Ameer Ali often argued, needed to concern themselves with the opinions of Indian Muslims on domestic and international political issues, especially with respect to the Ottoman empire.

Ameer Ali's writing was not only historical. He also argued against standard interpretations of international law. Leading British international lawyer John Westlake wrote, in 1894, that, "[i]t is true that politics are not law, but an adequate notion of the body of law cannot be gained without understanding the society in and for which it exists, and it is therefore necessary for the student of international law to appreciate the actual position of the great powers of Europe."³⁹⁷ Westlake believed that political contestation among people sharing a commitment to a common society underpinned the law. Law reflected society's values. Law could be delineated and enforced. The enforcement of law

³⁹⁶ See, Gail Minault, *The Khilafat Movement: Religious Symbolism and Political Mobilization in India* (New York, 1982).

³⁹⁷ John Westlake, *Chapters on the Principles of International Law* (Cambridge, 1894), 92.

supported and reaffirmed society's values. Law could only derive from a shared understanding of the society for which the law was created. Western Europe shared a common political society. The idea of Christendom formed the religious basis for common values, even though explicitly religious and natural law arguments were attenuated by legal theorists' shift toward historical approaches to legal reasoning in the mid-to-late nineteenth century.

Westlake's focus on the great powers of Europe, in the context of international law, was a moral stance that excluded non-European societies. Civilizational unfamiliarity, the unknowability of other cultures, and the lack of a shared societal ethos placed non-European societies outside of the scope of international law. Ameer Ali's divergence from Maine on the evolution of civilizations was applicable to Westlake's assertions, too. Civilizations other than one's own were not unknowable, except through the willful neglect to educate oneself. The moral duty of rulers was not to protect the populace because of a supposedly underdeveloped evolutionary status but to educate themselves about the history and the current needs of the populace.

The historical turn in legal reasoning meant that Ameer Ali's approach to historical Muslim modernism served not only to explain Islam to non-Muslims but also to argue for the equality of Muslims in the international order. His focus on the morality of the Prophet and the Prophet's ethics-inflected construction of a Muslim state mirrored the commentary of British legal thinkers in their debates about civilizational hierarchy and the proper behavior of states. Westlake and other European legal thinkers excluded

Muslims from international society based on the alleged inferiority of Islam. Ameer Ali wrote to construct an international society based on a historical jurisprudence that included all “People of the Book,” or adherents of the Abrahamic, monotheistic religions. He acknowledged the influence of Rabbinical thought on the development of Islamic legal thought, as well as of Roman law on the Byzantine law that was incorporated into Islamic jurisprudence at the time of Muslim eastward expansion.³⁹⁸ In chapter four, Ameer Ali’s application of these ideas in his political advocacy in support of the Ottoman empire will be discussed.

Maulvi Chiragh Ali

Ameer Ali’s description of Islam and Muslim society as liberal, humanistic, and international in its worldview infused Chiragh Ali’s work. Chiragh Ali came from a Kashmiri background and grew up in north India. His father died early, so he did not pursue higher education but instead worked for the British government. In 1877, the Nizam of Hyderabad, on Sayyid Ahmad’s recommendation, hired Chiragh Ali for a post in revenue administration, where he eventually rose to the position of Finance Secretary, advancing faster than he would have done working for the British-dominated Government of India.³⁹⁹ Hyderabad was a felicitous location for Chiragh Ali. The Nizam

³⁹⁸ Syed Ameer Ali, *A Critical Examination of the Life and Teaching of Muhammad* (London, 1873); Syed Ameer Ali, *The Personal Law of the Mahommedans (According to All the Schools), Together with A Comparative Sketch of the Law of Inheritance among the Sunnis and the Shiah*s (London, 1880).

³⁹⁹ Charles Kurzman (ed.), *Modernist Islam, 1840-1940: A Sourcebook* (Oxford, 2002), 277-290.

was one of the most generous benefactors of Muslims in the arts, literature, and education in nineteenth-century India.⁴⁰⁰ His patronage connected individual reformers and reformist organizations, creating a network that extended throughout India.

Chiragh Ali's book, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, published in 1883, directly challenged the view, espoused by Malcolm MacColl, that Islam was a naturally rigid belief system, not only unchanging but unchangeable and theocratic, and that the Ottoman empire was incapable of respecting the rights of its Christian subjects because of the inherent deficiencies in Islam. MacColl had written, "[a]n honest Mussulman can deal justice to Christian and Mussulman, provided that he is administering a non-Mussulman code, under the orders of a non-Mussulman superior" because "the more conscientious a Mussulman ruler is the less capable he is of doing justice to his non-Mussulman subjects."⁴⁰¹ Injustice was the only possible outcome, if a Muslim ruler were ruling according to the dictates of Islam.

Consequently, according to MacColl, no reforms were possible that might allow the continued existence of a Muslim Ottoman empire. No honest Muslim could ever rule non-Muslim subjects. Chiragh Ali realized that MacColl's rhetorical aims were to make acceptable the dispossession of the Ottoman rulers. After all, according to MacColl, "the Ottoman empire [was] clearly doomed," it being the concern of statesmen only to determine whether "the end shall come in a sudden crash, or slowly, through the gradual

⁴⁰⁰ Minault, *Secluded Scholars*, 158-187.

⁴⁰¹ Malcolm MacColl, "Are Reforms Possible under Mussulman Rule?," *The Contemporary Review*, 40 (1881), 257-281, at 280.

emancipation and political discipline of the subject populations.”⁴⁰² Chiragh Ali wrote in reply for “those European and Anglo-Indian writers who... suffer under a delusion that Islam is incapable of any political, legal or social reforms,” and whose ignorance was “unbecoming” because “[t]he British Empire [was] the greatest Mohammedan Power in the world,” a trope often used by pro-imperial British politicians and by Muslims appealing to the British and the British-Indian governments on behalf of the Ottoman empire..⁴⁰³

Unlike Sayyid Ahmad and Ameer Ali, Chiragh Ali endeavors neither to defend the character of Muhammad nor to revise Islamic history. Chiragh Ali’s work mobilizes the historical work of both men and the evolutionary jurisprudence practiced by Ameer Ali in support of the goal of entering explicitly into a debate about international politics and law. Chiragh Ali exemplifies a radical modernism extended to explain and call for legal reforms in both the Ottoman empire and in British India. He does not rationalize religious laws but calls for the expurgation of those laws that fail to meet the modern needs of Muslims in both the Ottoman empire and in India. His call to modify the law relies on a distinction between revealed law in the Quran and what he calls the Muslim “common law,” the accretions built up over centuries by scholarly interpretations that rightly apply only to the times in which those interpretations arose.

⁴⁰² MacColl, “Are Reforms Possible?,” 281.

⁴⁰³ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire and Other Mohammadan States* (Bombay, 1883), i.

He meets MacColl's charge of Islamic theocracy by recalling the historical descriptions of a democratic commonwealth provided by Sayyid Ahmad and Ameer Ali. He explains that Islamic states are not naturally theocratic, that the early Caliphs, following the death of Muhammad, were the consensus choice of the Muslim people. He agrees with MacColl that reform, in both Turkey and India, is necessary. Unlike MacColl, Chiragh Ali argues that reform is possible. One of his goals is that "several chapters of the Common Law, as those on political Institutes, Concubinage, Marriage, Divorce, and the disabilities of non-Muslim fellow subjects are to be remodeled and re-written in accordance with the strict interpretations of the Koran."⁴⁰⁴

Chiragh Ali uses Ameer Ali's scriptural arguments to make his case for both the possibility of reform and the examples of potential reforms that he discusses. No common code existed for the guidance of government and no law books had yet been written during the earliest days after the Quranic revelation. The schools of Islamic jurisprudence evolved later and had been regional, thereby reflecting the customs and usages of particular places in particular times. Contemporary Muslims in Ottoman lands or in India had to confront their own, different historical, interpretive context, and the accreted Muslim common law could not speak to current challenges.

The Muslim common law was also manipulable and had been used "to support all manner of lies and absurdities, or to satisfy the passion, caprice, or arbitrary will" of past

⁴⁰⁴ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, xxvii.

rulers.⁴⁰⁵ Resistance to many British reforms in India resulted from reasoning based on the Muslim common law, rather than the Quran. Reason applied to the revealed law, read and re-read in light of ever-changing historical circumstances, was crucial, if Islam and Muslims were to make progress. Chiragh Ali wrote,

the fact that Mohammad did not compile a law, civil or canonical, for the conduct of the believers, nor did he enjoin them to do so, shows that he left to the believers in general to frame any code, civil or canon law, and to found systems which would harmonize with the times, and suit the political and social changes going on around them”⁴⁰⁶

This argument was aimed directly at a Western audience and at other Muslim modernists. Traditional Muslim religious scholars rejected this argument.

The Quran did not comprise civil or political law, so the Ottoman Sultan, as Caliph, was free to enact such reforms as he desired based on contemporary civil and political circumstances. “He [was] the only legal authority on matters of innovation... the living voice of Islam.”⁴⁰⁷ Unrelenting European intervention in the internal affairs of the Ottoman empire made this politically impossible, squeezing the Sultan between domestic and international rivals. The Sultan possessed the religious freedom necessary to enact reforms, but he also required political freedom. Chiragh Ali also applied this reasoning to India, arguing that reform could not be imposed by the British. “Political inequality, race distinctions and social contempt” both characterized and undermined British rule.⁴⁰⁸ The

⁴⁰⁵ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, xix.

⁴⁰⁶ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, 11.

⁴⁰⁷ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, xxx.

⁴⁰⁸ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, xxviii.

solution was simple: “political and social equality must be freely and practically granted to the natives of British India.”⁴⁰⁹

He also took up the challenge of explaining Islamic understandings of war, or *jihad*, and the supposed Islamic intolerance of other faiths.⁴¹⁰ He continued to write against the “Quranic interpreters” and the “Muhammadan doctors” whose “[s]lavish adherence to the letter” of the Muslim common law leads to “taking not the least notice of the spirit of the Quran.”⁴¹¹ He avoids the debate about whether British India was in a state of peace or a state of war, declaring that the Muslims were living under a third category, a state of protection, imagining the British as trustees, a status that Ameer Ali later came to see as akin to slavery.⁴¹²

Chiragh Ali accepted Ameer Ali’s position that Muhammad’s wars were defensive and fought in the name of freedom and liberty. He made his arguments about these wars based on nineteenth-century international law, citing some of the best respected international jurists of the time.⁴¹³ The crux of his argument is that treaties existed

⁴⁰⁹ Chiragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire*, xxviii.

⁴¹⁰ Chiragh Ali, *A Critical Exposition of the Popular “Jihad,” Showing that All the Wars of Mohammad were Defensive; and that Aggressive War, or Compulsory Conversion, is not Allowed in the Koran. With Appendices Proving that the Word “Jihad” does not Exegetically Mean “Warfare,” and that Slavery is not Sanctioned by the Prophet of Islam* (Calcutta, 1885).

⁴¹¹ Chiragh Ali, *A Critical Exposition of the Popular “Jihad,”* xcii.

⁴¹² Iqbal Singh Sevea, *The Political Philosophy of Muhammad Iqbal: Islam and Nationalism in Late Colonial India* (Cambridge, 2012), 8-9; Bayly, *Recovering Liberties*, 233.

⁴¹³ Henry Wheaton, *Elements of International Law*, Ed. William Beach Lawrence, 6th ed. (Boston, 1855); James Kent, *Kent’s Commentary on International Law*, Ed. J. T. Abdy, second ed., revised and brought down to the present time (London, 1878); William Edward Hall, *International Law* (Oxford, 1880); Francis Lieber, *Contributions to Political Science, Including Lectures on the Constitution of the United States, Being Volume II of The Miscellaneous Writings of Francis Lieber* (Philadelphia, 1881).

between the “nation” of Muslims and various “nations” of Jews, Christians, and idolaters who opposed Muhammad. These opponents violated treaty agreements. He cites Edward Gibbon that, “every man has the right to defend, by force of arms, his person and his possessions... [and] Mahommed, in the exercise of a peaceful and benevolent mission had been despoiled and banished by the injustice of his countrymen.”⁴¹⁴ Muhammad’s wars required no declaration because the Muslim nation was the injured party.⁴¹⁵ Moreover, Muhammad had attempted to resolve earlier disputes through negotiation and treaty-making, fulfilling his duty under inter-polity law to find pacific modes of redress for grievances.⁴¹⁶ Finally, according to Chiragh Ali, Muhammad, once the Muslim nation entered into the state of belligerence, adhered to the rules of war, adopting only those measures “which [were] indispensable for securing the ends of the war.”⁴¹⁷

Chiragh Ali accepted the conclusion reached by Sayyid Ahmad and Ameer Ali about the primacy of the Quranic revelation, the Prophet’s character, and the existence of an early Muslim, republican commonwealth that respected the civil, political, and religious rights of its subjects. His advancement of their arguments came in the form of anachronistically re-interpreting early Muslim society as embedded in international

⁴¹⁴ Quote in Chiragh Ali, *A Critical Exposition of the Popular “Jihad,”* 26; see, also, Kent, *Kent’s Commentary on International Law*, 144, on the right to self-defense.

⁴¹⁵ Henry Wheaton, *Elements of International Law*, Ed. William Beach Lawrence, 6th ed. (Boston, 1855), 369; William Edward Hall, *International Law* (Oxford, 1880), 320-322.

⁴¹⁶ Kent, *Kent’s Commentary on International Law*, 143-146.

⁴¹⁷ Francis Lieber, “Instructions for the Government of Armies of the United States in the Field,” In Lieber, *Contributions to Political Science, Including Lectures on the Constitution of the United States, Being Volume II of The Miscellaneous Writings of Francis Lieber* (Philadelphia, 1881), 250.

relations, the rules for which derived in large part from the ethical vision of the Quran and the Prophet. This republican, international ethos placed Muslim society on par with the Romans to whose law contemporary international jurists referred when contemplating nineteenth-century international law. It also argued for the incorporation of contemporary Muslims into international society, allowing him to critique European interventions in Ottoman and South Asian affairs.

Conclusion

The quality of Anglo-Ottoman relations declined steadily after the Turkish defeat in the Russo-Turkish war, especially after the ascension of William Gladstone as prime minister in 1880. The specter of pan-Islam appeared in the British press with increasing frequency from the early 1880s, possibly as a variant of two familiar terms of imperial aggrandizement, Pan-Germanism and Pan-Slavism.⁴¹⁸ Ottoman-Muslim intellectuals invoked pan-Islamic ideas instrumentally, hoping to attract extra-imperial support for their empire. Ahmad Khan, Ameer Ali, and Chiragh Ali were interested in cooperative inter-relations between the British and a pan-Indian, Muslim community, and while they were generally supportive of the Ottoman empire, and certainly desirous of good Anglo-Ottoman relations, they acknowledged the need for Ottoman reform.

Ahmad Khan had focused on Britain's foreign character to argue that South Asians' knowledge of their own communities was a valuable resource, if the British

⁴¹⁸ Jacob Landau, *The Politics of Pan-Islam: Ideology and Organization* (Oxford, 1990); Aydin, *The Politics of Anti-Westernism in Asia*.

intended to rule well. Ameer Ali's and Chiragh Ali's reinterpretations of the history of Islam undermined contemporary interpretations of Muslims as tradition-bound, backward, and deficient with respect to a European standard of civilization. They used the language of liberal political thought and international relations and law to describe the Prophet as a purveyor of laws and order among Muslims and non-Muslims rooted in a respect for civil and political rights and to describe the early Muslim community as a commonwealth with an imperial civilizing mission. This heritage enabled an imagined imperial-Islamic future in which Muslims were partners in the civilizing mission of the empire.

Chapter 3

Greater Britain, the Indian Empire, and Intra-Imperial Internationalism

John Robert Seeley (1834-1895), lecturing to Cambridge University students in 1882, lamented that British ignorance and indifference regarding the “mighty phenomenon of the diffusion of our race and the expansion of our state” had created the impression that Britain had “conquered and peopled half the world in a fit of absence of mind.” These words, intended as an historiographical critique of contemporary histories of Britain for regularly neglecting the empire, set the stage for Seeley to argue that the British people were not merely an isolated “race inhabiting an island off the northern coast of the Continent of Europe.”⁴¹⁹ Emigration had created a national, world state, Greater Britain, populated by a people “one in blood, language, religion and laws, but dispersed over boundless space.”⁴²⁰

The Greater British nation differed, Seeley warned, fundamentally from Britain’s Indian empire. The British-Indian state had been superimposed over many peoples, languages, legal systems, and, especially, religions. South Asians were “of alien race and religion, and [were] bound to [Britons] only by the tie of conquest.”⁴²¹ No Indian nation existed, no common feeling of nationality. This, for Seeley, was the crucial fact of the Indian empire. British power had enabled British rule only with the help of Indian allies

⁴¹⁹ John Robert Seeley, *The Expansion of England: Two Courses of Lectures* (Boston, 1883), 8.

⁴²⁰ Seeley, *The Expansion of England*, 159.

⁴²¹ Seeley, *The Expansion of England*, 11.

and soldiers, who aided the British because South Asians lacked a shared sensibility of Indian-ness. This idea endured. Reginald Coupland, the Beit Professor of Colonial History at Oxford University from 1920 until 1948, referenced Seeley's argument in a 1945 book on the constitutional history of India to explain both the origins of British rule and the Hindu-Muslim religious animus that was threatening the existence of a unified independent India.⁴²²

The absence of national, cultural kinship between Greater Britain and India meant that "[w]hatever political maxims [were] most applicable to the one, [were] most inapplicable to the other."⁴²³ White, settler colonists throughout the empire assumed their shared, British cultural and political consanguinity.⁴²⁴ This, broadly, and local circumstances, particularly, conditioned their conceptions or models of imperial belonging. The colonists argued, returning to the ideologies of citizenship enumerated by Duncan Bell, that Britishness was in their blood and that British imperial institutions were their birthright.⁴²⁵ Their loyalty to the imperial state was both natural and organic, an outgrowth of their common heritage, but it was contingent both on the imperial government's recognition of colonists' common national and cultural ancestry and on the imperial-constitutional provision of representative, participatory, local political control.

⁴²² Reginald Coupland, *India: A Re-Statement* (Oxford, 1945), 27.

⁴²³ Seeley, *The Expansion of England*, 176.

⁴²⁴ Carl Bridge and Kent Fedorowich (eds.), *The British World: Culture, Diaspora and Identity* (London, 2003); see, also, Darwin, *The Empire Project*; Bell, *The Idea of Greater Britain*; Peter Karsten, *Between Law and Custom: High and Low Legal Cultures in the Lands of the British Diaspora—the United States, Canada, Australia, and New Zealand, 1600-1900* (Cambridge, 2002).

⁴²⁵ See, Bell, "Beyond the Sovereign State," 420-424.

South Asians' presence in the white, settlement colonies, what we know now as the states of South Africa, Australia, New Zealand, and Canada, prompted debates about civil and political rights, the passage of discriminatory laws that were challenged by petitions to the imperial and Indian governments and in local courts, and an imperial constitutional crisis regarding the equality of British citizen-subjects.⁴²⁶ The prosaic origin of the part played by South Asians in the imperial "Indian problem" of the white colonies, which itself was part of a global "Asiatic problem" from the 1890s, lay in the exigencies of colonial economies in southern Africa, the Caribbean, and southeast Asia.⁴²⁷ Colonies required plantation laborers, so governments in London, Calcutta, and the individual colonies negotiated systems of indentured-labor emigration after the abolition of slavery throughout the empire in 1834.⁴²⁸ A "triangular pact" among "the governments of Natal, India and Great Britain" set the stage for conflict throughout all southern Africa.⁴²⁹

⁴²⁶ Banerjee, *Becoming Imperial Citizens*; Gorman, *Imperial Citizenship*; Robert Huttenback, *Racism and Empire: White Settlers and Colored Immigrants in the British Self-Governing Colonies, 1830-1910* (Ithaca, 1976); Robert Huttenback, *Gandhi in South Africa: British Imperialism and the Indian Question, 1860-1914* (Ithaca, 1971); Amanda Behm, "Settler Historicism and Anticolonial Rebuttal in the British World, 1880-1920," *Journal of World History*, 26 (2015), 785-813.

⁴²⁷ C. P. L., "The Self-Governing Dominions and Coloured Immigration," July 1908, The National Archives (TNA), Kew, London, Colonial Office Files (CO) 886/1/1; L. E. Neame, *The Asiatic Danger in the Colonies* (London, 1907); Raymond Leslie Buell, "Again the Yellow Peril," *Foreign Affairs*, 2 (1923), 295-309; Richard Jebb, "The Imperial Problem of Asiatic Immigration," *Journal of the Royal Society of the Arts*, 56 (1908), 585-610.

⁴²⁸ Madhavi Kale, *Fragments of Empire: Capitalism, Slavery, and Indian Indentured Labor* (Philadelphia, 1998); David Northrup, *Indentured Labor in the Age of Imperialism, 1838-1914* (Cambridge, 1995); Hugh Tinker, *A New System of Slavery: The Export of Indian Labour Overseas, 1830-1920* (London, 1974); Rachel Sturman, "Indian Indentured Labor and the History of International Rights Regimes," *The American Historical Review*, 119 (2014), 1439-1465.

⁴²⁹ Bridglal Pachai, *The International Aspects of the South African Indian Question, 1860-1971* (Cape Town, 1971), 1, on the pact; C. P. L., "The Self-Governing Dominions," TNA CO 886/1/1, 26, on Natal as the origin of immigration-related conflict.

The disputes between settlers and South Asian migrants were shaped by the earlier interactions of white colonists with indigenous peoples, South Asians' experiences and expectations of British rule, and the racial and culturalist theorizing common in the second half of the nineteenth century. Bell's remaining two models of imperial belonging invoked explicit racial criteria, taking account of these circumstances.⁴³⁰ "Racial-imperialism" allowed only for white citizenship. This perspective animated settler-colonial legal politics, wherein the putative superiority of the white polity explained differential legal-institutional arrangements for non-whites. "Racial-isopolitanism" adapted the Greek and Roman practice of granting reciprocal rights of belonging between independent states to link Britain, the settler colonies, and the United States in a white, cultural-national, kinship-based federation.⁴³¹

This chapter analyzes the conflict between settler-colonial British-ness and migrant, imperial British-Indian-ness. It extends Mrinalini Sinha's recent efforts to examine competing "spatial and moral imaginaries of [developing colonial and Indian] national space[s]" to explain how intra-imperial rivalries contributed to the creation of an "*imperial nationalizing*" moment, in the midst of the First World War, during which theorists, statesmen, and imperial administrators re-constitutionalized the empire as an

⁴³⁰ Paul McHugh, *Aboriginal Societies and the Common Law: A History of Sovereignty, Status, and Self-Determination* (Oxford, 2004).

⁴³¹ See, James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939* (Oxford, 2009); Lake and Reynolds, *Drawing the Global Colour Line*.

international entity comprising proto-sovereign states.⁴³² The chapter first explains the colonial origins of responsible government for white Britons in early to mid-nineteenth-century British North America and the way that local self-government could be used to undermine imperial directives in settlers' interactions with indigenous peoples. It then examines early ideas about Britishness in light of the tension between imperial unity and colonial separatism in political theory. The main, third, section of the chapter traces the ideological contest between Seeley and South Asian thinkers and South Asian settlers' use of international legal argumentation to fight discriminatory treatment, mostly in the South African Republic, known as the Transvaal.

The triangular relationship that organized indentured labor in Natal did not exist in the Transvaal, which was independent from 1852 until 1877, when the British asserted paramountcy, then independent again between the end of the First Boer War in 1884 and the end of the Second Boer War in 1902, after which it remained a British colony until unification with Natal, the Cape Colony, and the Orange River Colony created the Union of South Africa in 1910. Colonists disregarded debates about the presence or absence of Indian nationality. They argued two points. First, national differences justified the application of restrictive, race-based political and economic laws for South Asians within the colonies. Second, local governance should supersede imperial constitutional law. The narrative of British justice had led South Asians to believe that they should be treated fairly throughout the empire, but they faced exclusivist political ideologies rooted in

⁴³² Mrinalini Sinha, "Premonitions of the Past," *The Journal of Asian Studies*, 74 (2015), 821-841, at 825, italics in the original.

culture-and-race-inflected understandings of democratic self-government. They fought the ideologies, the legislation and laws, and the administrative practices that created separate and unequal communities within the empire. The final section explains both Britain's refusal to over-rule discriminatory practices in the colonies and Britain's recognition of the Indian state's equality within the empire.

The Invention of “Responsible Government”

The origins of the later disputes both between the white settler colonies and the British government and between the governments of the white settler colonies and South Asian migrants lay in the reformist era of the 1830s. Many colonists, contra Thomas Babington Macaulay, saw political participation and active citizenship as a national birthright. They saw themselves, in Macauley's words, as “a portion of the community which had been of no account” but that had expanded and become strong, and they demanded more attention to their own ideas about proper governance. Their accusations of overbearing imperial control and of deprivation of settlers' national rights as Britons recalled North American complaints in the 1770s. The Upper and Lower Canadian revolts of 1837 and 1838 were resolved with the colonies intact, but the imperial government was compelled to adjust constitutional relations.

The Crown appointed a commissioner, Lord Durham, to assess and recommend new constitutional arrangements following the revolt. Durham reported in 1839 that “the lamentable and hazardous state of things” had been “produced by [a] conflict of races

which... divided the Province of Lower Canada.”⁴³³ He went on to describe the problem as one of “jealousy between two races, so long habituated to regard each other with hereditary enmity, and so differing in habits, in language and laws,” that only “liberal institutions and a prudent policy” might have ameliorated the conflict.⁴³⁴ Arthur Berriedale Keith (1879-1944), a scholar of imperial constitutional law, Sanskrit, and Indian history, as well as a British civil servant, identified Durham’s innovation as the creation of “responsible government,” the “concession to the local legislature of the control of the executive, to permit the colonies to enjoy full autonomy in domestic concerns, while preserving to the Imperial Government supremacy over all matters of real imperial interest.”⁴³⁵ The imperial government focused on striking a balance between imperial and local control, and how to achieve that balance, to hold colonists to the empire, even if that meant devolving power, preoccupied administrators.⁴³⁶

Racial-imperialism did not yet exist. The peoples “habituated to regard each other with hereditary enmity” were the British and the French settlers, the latter lacking experience of representative institutions and required the civilizing tutelage of British institutions. This “French deficiency,” rooted in monarchical absolutism, could be

⁴³³ John Lambton, the Earl of Durham, “Report on the Affairs of British North America,” In C. P. Lucas (ed.), *Lord Durham’s Report on the Affairs of British North America, in Three Volumes, Volume II, Report from the Earl of Durham* (London, 1912), 62.

⁴³⁴ Lucas (ed.), *Lord Durham’s Report, Volume II*, 63.

⁴³⁵ Arthur Berriedale Keith, *Selected Speeches and Documents on British Colonial Policy, 1763-1917*, Volume II (London, 1918), vii.

⁴³⁶ B. H., “On Propositions to Reform Our Colonial System,” January 5, 1850, TNA CO 885/1/15; G. “Colonial Policy,” February 8, 1849, TNA CO 885/1/7.

ameliorated through civic education and British institutions. The potential of Macaulay's civilizing mission extended, theoretically, also to indigenous peoples in the colonies. Lord Stanley, the Secretary of State for War and the Colonies, described the expectations of the British government for relationships between British settlers and indigenous peoples in southern Africa in a letter to George Napier, Governor of Natal, on December 13, 1842. Stanley, in language strikingly reminiscent of the language used in the East India Company charter of 1833, explicitly disallowed slavery, "any distinction of colour, origin, race, or creed" in the law, and "aggression... upon the natives residing beyond the limits of the colony."⁴³⁷

The case of New Zealand is instructive regarding the general pattern of interactions between colonial governments and indigenous peoples. The initial relationship between the British and the Māori was one of sovereign equals. Captain William Hobson signed the Treaty of Waitangi with Māori tribal leaders on February 6, 1840. The British Parliament had ruled that the Treaty was necessary because the Māori had attained sovereignty after British resident James Busby drafted and signed with Māori chiefs the Declaration of Independence of New Zealand in 1835.⁴³⁸ Competing understandings of the status of the Māori under the Treaty and concomitant land-rights disputes caused significant problems between settlers and the Māori almost immediately.

⁴³⁷ Lord Stanley to Sir George Napier, December 13, 1842, In John Bird (ed.), *The Annals of Natal, 1495-1845*, Volume II (Pietermaritzburg, 1888), 140-147, at 146.

⁴³⁸ F. M. Brookfield, *Waitangi & Indigenous Rights: Revolution, Law & Legitimation* (Auckland, 2006), 96-98.

These early conflicts laid the foundation for relations between white New Zealanders and the Māori. It was an unstable foundation supported by two shaky pillars.

First, the British understanding of Crown sovereignty written into the Treaty of Waitangi lost its meaning in translation. “Sovereignty” was translated into the Māori text as *rangatiratanga*, which was understood by the Māori as implying equality.⁴³⁹ Second, the Enlightenment-era cosmopolitan appreciation for historical diversity was steadily losing ground by 1840 to the liberal idea of progress.⁴⁴⁰ The Lockean conception of individual property rights in land, coupled with a dualistic notion of improvement that was both moral and material, led the British to see collectively held Māori land as underutilized.⁴⁴¹ Despite the nominal sovereignty accorded the Māori under the Treaty of Waitangi, settlers’ political and economic wants encouraged the New Zealand Land Company to coerce the sale of land.⁴⁴² In 1865, the Māori Land Court Act promoted the individualization of Māori collective title to land, undermining traditional land rights and placing alienated land on the auction block.⁴⁴³

⁴³⁹ McHugh, *Aboriginal Societies and the Common Law*, 15.

⁴⁴⁰ Karen O’Brien, *Narratives of Enlightenment: Cosmopolitan history from Voltaire to Gibbon* (Cambridge, 1997); P. J. Marshall and Glyndwr Williams, *The Great Map of Mankind: British Perceptions of the World in the Age of Enlightenment* (London, 1982); Mehta, *Liberalism and Empire*.

⁴⁴¹ John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650-1900* (Montreal, 2006).

⁴⁴² Jim McAloon, “Gentlemanly Capitalism and Settler Capitalists: Imperialism, Dependent Development and Colonial Wealth in the South Island of New Zealand,” *Australian Economic History Review*, 42 (2002), 204-223; Stuart Banner, “Two Properties, One Land: Law and Space in Nineteenth-Century New Zealand,” *Law & Social Inquiry*, 24 (1999), 807-852.

⁴⁴³ New Zealand, *Māori Land Court Act 1865*; see, also, Stuart Banner, “Preparing to be Colonized: Land Tenure and Legal Strategy in Nineteenth-Century Hawaii,” *Law & Society Review*, 39 (2005), 273-314.

Exactly this sort of dispossession, overlaid with a thin veneer of legality, had been criticized by the Report of the Select Committee on Aborigines in 1837.⁴⁴⁴ The loss of land and growing numbers of settlers sparked the New Zealand Wars (1845-1870), in which the Māori fought the settlers to a standstill.⁴⁴⁵ The expropriation of land troubled John Stuart Mill, who saw it as an abrogation of the duty to rule responsibly and with due regard for historical variations among peoples. In 1866, near the end of these wars, he wrote, “[p]erhaps the proofs which the Māoris have given that they can be formidable enemies may have produced towards them in the colonists a different state of mind,” but if so, the New Zealand settlers would be “the only “Englishmen under new conditions” who do not think any injustice or tyranny whatever legitimate against what they call inferior races.”⁴⁴⁶

Three facts, by 1870, set the stage for a long period in which white New Zealanders and the Māori lived largely separate lives of “improvement” and of impoverishment. The settlers outnumbered the Māori, and the demographic trend was in the settlers’ favor.⁴⁴⁷ The originally divided structure of New Zealand government had been integrated, thereby reducing tensions both between Parliament and New Zealand

⁴⁴⁴ Great Britain, Parliament, House of Commons, Select Committee on Aboriginal Tribes, *Report of the Parliamentary Select Committee on Aboriginal Tribes. (British settlements.) Reprinted, with Comments, by the “Aborigines Protection Society,”* (London, 1837), 3-6.

⁴⁴⁵ James Belich, *The Victorian Interpretation of Racial Conflict: The Māori, the British, and the New Zealand Wars* (Montreal, 1989).

⁴⁴⁶ Quote in Katherine Smits, “John Stuart Mill on the Antipodes: Settler Violence against Indigenous Peoples and the Legitimacy of Colonial Rule,” *Australian Journal of Politics and History*, 54 (2008), 1-15, at 12-13.

⁴⁴⁷ James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939* (Oxford, 2009).

and between the Governor and the provinces.⁴⁴⁸ New Zealand was able to raise foreign capital for domestic investments for land-intensive economic development that propelled further alienation of Māori land.⁴⁴⁹ In 1877, Chief Justice James Prendergast, arguing around the law and state practice, declared the Treaty a “simple nullity.”⁴⁵⁰

Some empire theorists in the mid-nineteenth century imagined that responsible government would ensure imperial unity.⁴⁵¹ This was certainly the argument of South Asians like Naoroji, Sayyid Ahmad Khan, Ameer Ali, and Chiragh Ali. The concession forestalled colonial independence movements, but it set the stage for disputes between the colonial and imperial governments, especially concerning the treatment of indigenous peoples and, later, South Asians. Responsible government became the primary distinguishing factor between the colonies and India. The colonies received this concession mostly between 1850 and 1907, when Dominion status evolved to demarcate the settler colonies from India and the dependencies, while South Asians were compelled to demand it, continually and unsuccessfully. The struggle to define the appropriate locus of governmental authority, sovereignty, and jurisdiction, defined the relationships among imperial and colonial governments and both indigenous peoples and South Asians.⁴⁵²

⁴⁴⁸ Bernard Attard, “From Free-Trade Imperialism to Structural Power: New Zealand and the Capital Market, 1856-68,” *The Journal of Imperial and Commonwealth History*, 35 (2007), 505-527.

⁴⁴⁹ Banner, “Two Properties, One Land.”

⁴⁵⁰ *Wi Parata v. Bishop of Wellington*, *New Zealand Jurist Reports (New Series)*, 3, 1877.

⁴⁵¹ See, Keith, *Selected Speeches*, volume I, v-xiii; Arthur Berriedale Keith, *Imperial Unity and the Dominions* (Oxford, 1916); Arthur Berriedale Keith, “Colonial Self-Government in the Nineteenth Century,” *Journal of the Royal Society of Arts*, 56 (1907), 332-343.

⁴⁵² Benton, *A Search for Sovereignty*.

Thomas Metcalf argues that life overseas and “[p]articipation in the overseas empire... helped to create a sense of a distinctive “Indian” nationality.”⁴⁵³ National sensibilities were shaped equally by colonists’ efforts to prevent South Asians’ participation in the overseas empire. Contact between settlers and South Asians shaped the evolution of national sensibilities for both groups. While efforts to regulate both the indentured labor system and settler-South Asian inter-relations occurred “across national boundaries,” it is important to recognize that the efforts also served to create national boundaries.⁴⁵⁴ These were “struggles over the nature of Britishness itself” and the extent to which South Asians could claim Britishness in any form.⁴⁵⁵

The Settler Colonies and the Empire: Unity or Separation

Debates about economic policy and colonial self-government continued. Some empire theorists believed that responsible government was, and should be, a signpost on the path to complete independence for the colonies. Goldwin Smith (1823-1910), the Regis Professor of Modern History at Oxford (1858-1866) before he emigrated to North America to become a professor of history at Cornell and then a journalist in Canada, argued that the expense of protecting the colonies heaped “gratuitous” taxation onto an already “overtaxed people,” and scattered British military forces “over the globe, leaving

⁴⁵³ Metcalf, *Imperial Connections*, 3.

⁴⁵⁴ Sturman, “Indian Indentured Labor.”

⁴⁵⁵ Alan Lester, “British Settler Discourse and the Circuits of Empire,” *History Journal Workshop*, 54 (2002), 24-48, at 25; Zoe Laidlaw, *Colonial Connections, 1815-45: Patronage, the Information Revolution and Colonial Government* (Manchester, 2012).

the heart of England open to a sudden blow.” The expansion of free trade had ended the need to protect monopolies, so the “perilous connexion” between Britain and the colonies had “survived its sole legitimate cause.” Hubris led theorists and politicians to imagine the colonies as national or constitutional extensions of Britain. The colonies “must be developed by a nation itself out of the elements of its own character and circumstances,” because “constitutions are not made, but grow.”⁴⁵⁶ Self-government had been adjudged appropriate in certain colonies, and within one strain of thought, emancipation should follow.

The Times of London responded in a leading article on February 4, 1862, expressing an opposing view by deprecating Smith as a man who fancied himself “capable of great political discoveries” but who merely repeated one of a number of “certain fallacies which reappear at intervals like comets of short period.” *The Times* opined, claiming the support of public opinion while ignoring no small measure of dissent in the colonies, that “[t]o have established communities in every region of the globe, and to find them uniformly prosperous, and desirous of maintaining their connexion with the mother country and each other, is a triumph of enterprise and civilization of which few among us fail to be proud.”⁴⁵⁷ Smith, like Henry Maine and Seeley, saw no way out of India, where the British had assumed “duties which we are bound for the present to perform.”

⁴⁵⁶ Goldwin Smith, “The Empire: I. Colonial Emancipation,” In Goldwin Smith, *The Empire. A Series of Letters Published in “The Daily News,” 1862, 1863* (Oxford and London, 1863), 1-18, at 2-3.

⁴⁵⁷ Smith, “The Empire: I. Colonial Emancipation,” In *The Empire*, 11-12.

British rule was the difference between order and anarchy, even though the best the British could do was to give the “empire” of “India a despotism carried on by a line of able and honourable despots, amenable in the last resort to the tribunal of a public opinion much higher than that of the Indians themselves.”⁴⁵⁸ Smith expressed the hierarchical distinction between Britons and South Asians in the culturalist terms identified with Henry Maine.⁴⁵⁹ His opinion of South Asians allowed for progress, although it would be even more gradual than Macaulay envisioned, but unlike many later theorists, he sided with John Stuart Mill in eschewing the scientific racism that replaced cultural difference with biological inferiority and the idea that innate distinctions defined character and limited the potential for cultural or civilizational achievement.⁴⁶⁰

Charles Dilke (1843-1911) coined the term Greater Britain in 1869 in his book of the same name. He wrote *Greater Britain* as a travelogue to chronicle his experiences as a twenty-three-year-old Cambridge graduate following “England round the world.”⁴⁶¹ Greater Britain entered the lexicon of political, public opinion slowly.⁴⁶² The term was used loosely to refer either to the entire empire, to Britain and the settler colonies, or to the English-speaking, Anglo-world of Britain, the colonies, and the United States.⁴⁶³

⁴⁵⁸ Goldwin Smith, “XVIII. India,” In Goldwin Smith, *The Empire. A Series of Letters Published in “The Daily News,” 1862, 1863* (Oxford and London, 1863), 257-297, at 257, 295.

⁴⁵⁹ Mantena, *Alibis of Empire*.

⁴⁶⁰ Georgios Varouxakis, *Mill on Nationality* (London, 2002), 47-48.

⁴⁶¹ Charles Wentworth Dilke, *Greater Britain: A Record of Travel in English-Speaking Countries during 1866 and 1867, in Two Volumes*, Volume I (London, 1868), vii.

⁴⁶² Belich, *Replenishing the Earth*, 457.

⁴⁶³ Bell, *The Idea of Greater Britain*.

Dilke had been influenced by the “father of ethnographic racism,” Arthur de Gobineau, who, long before W. E. B. DuBois identified “the problem of the color line” as the problem of the twentieth century, declared “that the racial question overshadows all other problems in history.”⁴⁶⁴ The question of race also affected ideas about civilization and hierarchy in international law.⁴⁶⁵ James Lorimer believed “no modern contribution to science seem[ed] destined to influence international politics and jurisprudence to so great an extent as that which [was] known as ethnology, or the science of races.”⁴⁶⁶

Dilke’s book appeared in the early years of the mass global migrations, at a time when relatively few people were able to share knowledge about Britons overseas. He agreed that the future of the empire in its relation to the colonies was one of greater or lesser separation, but the national bonds of race, language, and law struck him as so strong that he both coined the phrase Greater Britain and advocated for the constitutional emancipation of the colonies.⁴⁶⁷ Like later theorists, Dilke was ambivalent about India. He saw Greater Britain as a universalizing force for good that would eventually extend its dominion across the globe, but as with blacks in America, South Asians were an impediment to the achievement of this end, a perspective later shared by James Bryce.

⁴⁶⁴ Quote in Brett Bowden, “The River of Inter-Civilisational Relations: The Ebb and Flow of Peoples, Ideas and Innovations,” *Third World Quarterly*, 28 (2007), 1359-1374, at 1364; on Gobineau’s influence on Dilke, see, Koebner and Schmidt, *Imperialism*, 87-90; on DuBois, see, Lake and Reynolds, *Drawing the Global Colour Line*.

⁴⁶⁵ Martti Koskenniemi, “Race, Hierarchy and International Law: Lorimer’s Legal Science,” *The European Journal of International Law*, 27 (2016), 415-429; Brett Bowden, “The Colonial Origins of International Law. European Expansion and the Classical Standard of Civilization,” *Journal of the History of International Law*, 7 (2005), 1-23.

⁴⁶⁶ James Lorimer, *The Institutes of the Law of Nations*, volume I (Edinburgh and London, 1883), 93.

⁴⁶⁷ Koebner and Schmidt, *Imperialism*, 87-91.

On the other hand, even though racial inferiority could not be eliminated, according to these theorists, the English language and British institutions and laws could remediate the inherent deficiencies of the “cheaper” races. Dilke, like Goldwin Smith, supported the constitutional separation of the colonies, believing that sympathetic ties of national kinship would sustain cultural connections. Others advocated stronger, formal institutional and constitutional arrangements among the component parts of the empire. The debate assumed a more urgent tone after 1870, when conservatives began discussing variations of imperial federation to “save” the empire from Liberal dismemberment at the hands of William Gladstone, an opponent of foreign adventurism and an ambivalent imperialist.⁴⁶⁸

A Clash of Empires: South Asian Migrants in Southern Africa

Massive global migration, of which South Asian migration to the colonies was a small and distinct part, created both explosive growth in the colonies and attractive opportunities for South Asian emigrants.⁴⁶⁹ Britain was the largest source of global migrants until the late nineteenth century.⁴⁷⁰ Social and economic changes at home led many to seek their fortunes elsewhere, mostly in the United States, and “the white

⁴⁶⁸ Duncan Bell, *The Idea of Greater Britain: Empire and the Future of World Order, 1860-1900* (Princeton, 2007); Koebner and Schmidt, *Imperialism*; Claeys, *Imperial Sceptics*.

⁴⁶⁹ Adam McKeown, “Global Migration, 1846-1940,” *Journal of World History*, 15 (2004), 155-189; see, also, Metcalf, *Imperial Connections*, especially chapter 5 on Indians in Natal, 136-164, and chapter 6 on Indians in East Africa, 165-203.

⁴⁷⁰ McKeown, *Melancholy Order*.

deluge” altered the imperial division of labor and the “economic, cultural and political geography of the globe.”⁴⁷¹ The anglophone countries of Britain, the United States, and the white, settler colonies had become, by 1850, “a politically divided but culturally and economically united intercontinental system.”⁴⁷² Nevertheless, indenture and expanding imperial transportation networks created the conditions for the emergence of South Asians as, in the words of Marilyn Lake and Henry Reynolds, “the global working class of the British Empire,” the presence of which in the white, settler colonies gave rise to political, legal, and constitutional disputes.⁴⁷³

British settler migration created the colonial circumstances that required labor.⁴⁷⁴ South Asian migrant labor fed the system.⁴⁷⁵ The number of South Asian emigrants to destinations outside the settler colonies far exceeded the number who participated in the indentured-emigration scheme. Adam McKeown estimates that only eight percent of total South Asian migrants departed India having signed indenture contracts, while more than 29 million went to Southeast Asia, excluding Australasia, and around one million went somewhere in Africa.⁴⁷⁶ The indentured-emigration regime responded to economic needs

⁴⁷¹ Bayly, *The Birth of the Modern World*, 439; John Darwin, *After Tamerlane: The Rise and Fall of Global Empires, 1400-2000* (New York, 2008), 251.

⁴⁷² Belich, *Replenishing the Earth*, 9.

⁴⁷³ Lake and Reynolds, *Drawing the Global Colour Line*, 23; Amanda Behm, “Settler Historicism and Anticolonial Rebuttal in the British World, 1880-1920,” *Journal of World History*, 26 (2015), 785-813.

⁴⁷⁴ Gary Magee and Andrew Thompson, *Empire and Globalisation: Networks of People, Goods and Capital in the British World, c. 1850-1914* (Cambridge, 2010); Belich, *Replenishing the Earth*.

⁴⁷⁵ Tinker, *A New System of Slavery*; Northrup, *Indentured Labor in the Age of Imperialism*.

⁴⁷⁶ McKeown, *Melancholy Order*, 48; see, also, Sunil S. Amrith, *Migration and Diaspora in Modern Asia* (Cambridge, 2011); Rachel Sturman, “Indian Indentured Labor and the History of International Rights Regimes,” *The American Historical Review*, 119 (2014), 1439-1465.

in ways that eventually challenged cultural unity.⁴⁷⁷ Planters in Natal, in the 1850s, required laborers. The *Natal Mercury* asserted, in April 1859, that, “the fate of the colony hangs on a thread and that thread is Labour.”⁴⁷⁸ Colonial legislators were willing to work with imperial administrators in London and Calcutta to use law “to eradicate abuses and make indenture a legitimate system.”⁴⁷⁹

Natal Law 13 of 1859 required licenses for vessels carrying indentured laborers, detailed reporting of information about the identities of laborers and their points of origin and disembarkation, five-year limits on contracts, and “a sufficient quantity of good and wholesome provisions and water” during voyages.⁴⁸⁰ The Government of India Act XIII of 1864 standardized the rules of the system, including: recruitment processes; conditions in residential depots for laborers at the points of embarkation and landing; quality and quantity of food, water, clothing, blankets, and medicines to be provided or available during transit and on the plantations; and wages and working conditions.⁴⁸¹ The *Natal Mercury*, in 1865, praised the system as, “more essential to our prosperity than ever.”⁴⁸²

⁴⁷⁷ Belich, *Replenishing the Earth*, 9.

⁴⁷⁸ *Natal Mercury*, April 28, 1859, quote in Robert A. Huttenback, *Gandhi in South Africa: British Imperialism and the Indian Question, 1860-1914* (Ithaca, 1971), 4.

⁴⁷⁹ Sturman, “Indian Indentured Labor,” 1445.

⁴⁸⁰ Natal Law No. 14, 1859, In Charles Fitzwilliam Cadiz (ed.), *Natal Ordinances, Laws, and Proclamations, Compiled and Edited under the Authority and with the Sanction of His Excellency the Lieutenant Governor and the Honorable the Legislative Council, Volume I. A.D. 1845-1869* (Pietermaritzburg, 1891), 256-261, at 259.

⁴⁸¹ Sturman, “Indian Indentured Labor,” 1445-1447.

⁴⁸² *Natal Mercury*, January 19, 1865, quote in Robert A. Huttenback, “Indians in South Africa, 1860-1914: The British Imperial Philosophy on Trial,” *The English Historical Review*, 81 (1966), 273-291, at 274.

Contracts ended for the first wave of indentured laborers around 1871, and most of these workers decided to remain in Natal to work as household servants, small-scale farmers, and shopkeepers. Legislative efforts to reduce and control the number of South Asian immigrants failed during the 1870s because planters still needed workers, the Colonial Office chose to assist the planters, and the India Office decided to support South Asian migrants, who saw opportunities overseas. In 1875, Lord Salisbury, the Secretary of State for India (1874-1878), identified “the great advantage which must result from peopling the warmer British possessions which are rich in natural resources and only want population, by an intelligent and industrious race to whom the climate of these countries is well suited.”⁴⁸³

No one had anticipated that free migrants would follow the indentured workers, but starting in the 1870s, and especially in the 1880s, South Asian traders and retail business owners, mostly Muslims from Gujarat on the west coast of India, arrived and began competing with white colonists’ businesses. These “Arabs,” as they were called, aroused resentment and eventually animosity.⁴⁸⁴ Rising unrest in Natal and the other southern African colonies, coupled with a desire to hold the colonies to Britain, provided the context in which John Robert Seeley developed his segregationist, two-empire theory.

⁴⁸³ Quote in Lord Sanderson, *Report of the Committee on Emigration from India to the Crown Colonies and Protectorates (the Sanderson Commission)*, Cd. 5192 (1910), 7.

⁴⁸⁴ Ashwin Desai and Goolam Vahed, *Inside Indian Indenture: A South African Story, 1860-1914* (Cape Town, 2010).

Seeley, the Regis Professor of Modern History at Cambridge from 1869 until his death in 1895, likely accounts for the spread of the term Greater Britain. *The Expansion of England* sold 80,000 copies within three years and remained in print until 1956.⁴⁸⁵ Migration of the Anglo-Saxon race and of the state lay at the heart of his history. Territorial contiguity was not required to bind peoples to one another. “Community of race, community of religion, and community of interest” bound polities together as states.⁴⁸⁶ National and cultural incommensurability explained why “[t]he [white, settler] colonies and India [were] in opposite extremes.”⁴⁸⁷

His interest in imperial federation stemmed from geopolitical concerns. Only Greater Britain could remain a Great Power in a world of both established and rising empire-states. The United States, in particular, attracted his attention because of the racial, linguistic, and religious connection. He wrote, “[i]nstead of comparing [the British empire] to that which it resembles in no degree, some Turkish or Persian congeries of nations forced together by a conquering horde, let us compare it to the United States.”⁴⁸⁸ Segregating the Greater British and the Indian empires allowed Seeley to focus on the common Anglo-Saxon heritage of Britain and the colonies, and either to include the United States within the ambit of Greater Britain or to use it as a point of comparison.

⁴⁸⁵ Deborah Wormell, *Sir John Seeley and the Uses of History* (Cambridge, 1980).

⁴⁸⁶ Seeley, *The Expansion of England*, 11.

⁴⁸⁷ Seeley, *The Expansion of England*, 176.

⁴⁸⁸ Seeley, *The Expansion of England*, 300.

This also allowed him to argue that heritage, not the mere possession of India, the “jewel in the Crown” of the empire, was the source of British strength.

India, like Turkey or Persia, was a “congeries of nations,” not a state. Seeley, like Henry Maine, believed that Britain was duty-bound to act in the role of a cultural caretaker for a conquered India, and following Goldwin Smith, to provide for India a better form of government than South Asians could provide for themselves. This did not make the British “a conquering horde.” The British had arrived in India at a time of expansive unrest and had created public order out of anarchy using South Asian troops. India had “rather conquered herself.”⁴⁸⁹ British rule was benevolent and necessary. Seeley decried the scientific racism common at the time. He emphasized that Greater Britain and India had arrived in the present along different evolutionary-historical-progressive pathways, which amounted to a form of historical racism.

Greater Britons in the colonies were “the most progressive race put in the circumstances most favourable to progress. They have no past and an unbounded future. Government and institutions are all ultra-English. All is liberty, industry, invention, innovation, and as yet tranquility.” India was “all past and... no future... but in the past it opens vistas into a fabulous antiquity. All the oldest religions, all the oldest customs, petrified as it were. No form of popular government as yet possible.”⁴⁹⁰ The juxtaposition of progress and petrification allowed Seeley to justify political inequality by emphasizing

⁴⁸⁹ Seeley, *The Expansion of England*, 202.

⁴⁹⁰ Seeley, *The Expansion of England*, 176-177.

civilizational difference and distance and by ignoring the role of South Asian labor, at least in Natal, in creating colonial progress.

Popular participation in government was exactly what South Asians were demanding, and Seeley's racial-isopolitanism was met with institutional-imperial arguments rooted in the promises of non-discrimination and the equal treatment of the Queen's subjects found in the 1833 East India Company charter and the Proclamation of 1858. Syed Ameer Ali, in his 1873 work *A Critical Examination of the Life and Teachings of Mohammed*, described Islam as a political system that "consecrated the principles of self-government," suggesting that the capacity for active political participation was an evolutionary-historical characteristic of South Asian Muslims.⁴⁹¹ Two years earlier, Pherozeshah Mehta (1845-1915), a leader of the Parsi community and a politician who had been called to the bar from Lincoln's Inn in London in 1868, opined that "[l]ocal self-government... [was] as old as the East itself."

He offered a suggestion for the administration of India. He wrote, "from west to east, from north to south," all of India comprised municipalities, "bound together as in a species of net-work [*sic*] so that you have ready-made to your hand the frame-work [*sic*] of a great system of representation and all you have to do is to adopt what you have there and invite the municipalities to send you their delegates."⁴⁹² Badruddin Tyabji (1844-1906), a Shi'i Muslim judge and reformer, who had been called to the bar in 1867

⁴⁹¹ Ameer Ali, *A Critical Examination*, 318.

⁴⁹² Pherozeshah Mehta, *The Bombay Municipal Reform Question, 1871*, second ed. (Bombay, 1871), 6.

after studying at Middle Temple, ended his presidential address to the third Indian National Congress meeting on December 27, 1887, in Madras, advocating for South Asian participation in the administration of Indian affairs.⁴⁹³ This had been a common feature in the first three presidential addresses.⁴⁹⁴ Mehta revisited the municipal model in greater detail in his presidential address to the sixth Indian National Congress meeting in 1890 in Calcutta.⁴⁹⁵ Numerous British observers agreed with these men that British promises were being ignored or too slowly enacted.⁴⁹⁶

South Asians in the Transvaal: International Law and Imperial Legal Politics

The conditions for South Asians in southern Africa were especially harsh in the Dutch republics of the Orange Free State and the South African Republic, also known as the Transvaal. The Netherlands, in the Anglo-Dutch Treaty of 1814, ceded the Cape of Good Hope, or the Cape Colony, to Britain as part of the settlement of the Napoleonic Wars.⁴⁹⁷ Britain annexed Natal to the Cape Colony in May of 1844 to preserve “peace,

⁴⁹³ “The Inaugural Address by Mr. Budrudin Tyabji, President of the Third Indian National Congress, Held at Madras on the 27th December 1887,” In Gokhale (ed.), *Inaugural Addresses*, 29-41.

⁴⁹⁴ Robert Spence Watson, “Indian National Congresses,” *The Contemporary Review*, 54 (1888), 89-104.

⁴⁹⁵ “The Inaugural Address by Mr. Pherozshah Mehta, President of the Sixth Indian National Congress, Held at Calcutta on the 26th December 1890,” In Dinker Vishnu Gokhale (ed.), *Inaugural Addresses by Presidents of the Indian National Congress* (Bombay, 1895), 79-104.

⁴⁹⁶ *Lord Ripon and the People of India, Proceedings of the Public Meeting Held in Willis’s Rooms, London, on Wednesday, August 1st, 1883* (London, 1883); William Digby, *India for the Indians—and for England* (London, 1885); Henry J. S. Cotton, *New India, or India in Transition*, Popular ed. (London, 1886); Charles Bradlaugh, “Speech in the House of Commons on the Kashmir Question, July 3rd, 1890,” In Charles Bradlaugh, *Speeches* (London, 1890), 158-171.

⁴⁹⁷ No. 16. Convention between Great Britain and the United Netherlands,” August 13, 1814, In G. W. Eybers (ed.), *Select Constitutional Documents Illustrating South African History, 1795-1910* (London, 1918), 19-23.

order, and good government,” and created Natal as a separate Crown colony in April of 1845.⁴⁹⁸ British relations with the South African Republic and the Orange Free State were partly international and partly imperial. Britain recognized the sovereignty of both the South African Republic, in the Sand River Convention (1852), and the Orange Free State, in the Bloemfontein Convention (1854).⁴⁹⁹ The Orange Free State remained independent until annexed by the British on May 24, 1900, during the South African, or Boer, War (1899-1902), which was formally ended on May 31, 1902, by the Treaty of Vereeniging.⁵⁰⁰

British relations with the South African Republic were more complicated. Theophilus Shepstone, Britain’s Special Commissioner in the Republic, commenced to annex the Republic on April 9, 1877. The Transvaal government cited the Sand River Convention’s guarantee of independence and dispatched envoys to Britain and the United States seeking rescission of the plan or mediation, respectively.⁵⁰¹ Shepstone issued a proclamation of annexation on April 12, 1877, condemning the Republic’s failure as, “a source of strength and security to neighbouring European communities, and a point from

⁴⁹⁸ “No. 109. Annexation of Natal to the Cape Colony,” May 31, 1844, In Eybers (ed.), *Select Constitutional Documents*, 182-183, at 183; “No. 111. *Grant*.—Erecting the District of Natal into a Separate Government,” April 30, 1845, In Eybers (ed.), *Select Constitutional Documents*, 184-186.

⁴⁹⁹ “No. 177. The Sand River Convention,” January 16, 1852, In Eybers (ed.), *Select Constitutional Documents*, 357-359; “No. 158. The Bloemfontein Convention,” February 23, 1854, In Eybers (ed.), *Select Constitutional Documents*, 281-285.

⁵⁰⁰ “No. 172. Annexation of the Orange Free State,” May 24, 1900, In Eybers (ed.), *Select Constitutional Documents*, 344-345; “No. 173. The Vereeniging Peace Treaty,” May 31, 1902, In Eybers (ed.), *Select Constitutional Documents*, 345-347.

⁵⁰¹ “No. 197. Government Notice,” April 11, 1877, In Eybers (ed.), *Select Constitutional Documents*, 446-448.

which Christianity and civilisation might spread towards Central Africa.”⁵⁰²

Governmental incapacity and misrule formed the basis of Shepstone’s action, as for many of the annexations in India before the advent of Crown rule in 1858. Resentment simmered until the citizens of the former Republic revolted in December of 1880 and defeated the British in August of 1881. The Convention of Pretoria (1881) restored self-government within the Republic but placed the “control of the external relations” of the state, “including the conclusion of treaties, and the conduct of diplomatic intercourse with foreign powers,” entirely in the hands of the British government, a condition that was somewhat relaxed by Article 4 of the London Convention (1884), which allowed international relations between the Republic and the Orange Free State.⁵⁰³

Article 14 of the London Convention described certain rights available to all non-native, law-abiding residents of the Republic: “full liberty, with their families, to enter, travel, or reside” anywhere in the Republic; “to hire or possess houses, manufactories, warehouses, shops, and premises;” to engage in “commerce either in person or by any agents;” and freedom from any taxes “other than those which are or may be imposed upon citizens.”⁵⁰⁴ The government immediately began undermining both the British paramountcy described in Article 4 and, for non-whites, the rights promised in Article

⁵⁰² “No. 198. Annexation of the S. A. Republic to the British Empire,” April 12, 1877, In Eybers (ed.), *Select Constitutional Documents*, 448-453, at 449.

⁵⁰³ “No. 200. The Convention of Pretoria,” August 3, 1881, In Eybers (ed.), *Select Constitutional Documents*, 455-463, at 455; “No. 204. The London Convention,” February 27, 1884, In Eybers (ed.), *Select Constitutional Documents*, 469-474, at 471.

⁵⁰⁴ “No. 204. The London Convention,” February 27, 1884, In Eybers (ed.), *Select Constitutional Documents*, 473.

14.⁵⁰⁵ The legislature of the Republic, the Volksraad, passed the “Law in Respect of Coolies, Arabs and Other Asiatics” on June 1, 1885, aimed at the “Native Races of Asia,” including “so-called coolies, Arabs, Malays and Mahomedan subjects of the Turkish Empire.”⁵⁰⁶ The law precluded citizenship, disallowed ownership of landed property, required paid registration to engage in any form of commerce, and restricted where the affected population could reside.

The British government had known about the Volksraad’s plans since January, when the Transvaal government had inquired whether the British government would object. The British High Commissioner consulted with the Chief Justice of the Cape Colony, Sir Henry de Villiers, who confirmed that “natives,” in the Convention, even in its Dutch equivalent, “inboorlingen,” was “always understood to mean coloured aborigines of the country,” so that “Arabs, Indians, Chinese, and other Asiatics [were] not to be viewed as “natives,” but as “persons other than natives under Article 14.”⁵⁰⁷ The High Commissioner suggested amending the Convention, but the Secretary of State for the Colonies, the Earl of Derby, replied in March of 1885 that it would be, “more correct for the Volksraad to legislate in the proposed sense, having received an assurance that Her Majesty’s Government [did] not desire to insist upon any such construction of the terms of the Convention as would interfere with reasonable legislation in the desired

⁵⁰⁵ John Proctor, *Boers and Little Englanders: The Story of the Conventions* (London, 1897).

⁵⁰⁶ “Grievances of Indian Traders,” June 1, 1885, TNA, Dominions Office Files (DO) 119/21.

⁵⁰⁷ “Grievances of Indian Traders,” January 28, 1885, TNA DO 119/21.

direction.”⁵⁰⁸ The Volksraad and the Transvaal government would take advantage of Derby’s implied loophole.

One of the first challenges to the law came from Lewis Michell, the Joint General Manager of The Standard Bank of South Africa Limited. Michell wrote to the British High Commissioner, Hercules Robinson, on October 9, 1885, to point out that the law “constitute[d] a serious breach of the Convention [of London],” by forbidding the possession of fixed property and by an unlawful tax in the form of the registration fee to engage in commerce. The law “treat[ed] the parties under reference as natives,” indigenous Africans, even though they were actually “natives of India and British subjects.”⁵⁰⁹ Moreover, the South Asian immigrants were “orderly, industrious and respectable people... some among them... merchants of wealth and position, having establishments on a large scale in Mauritius, Bombay and elsewhere.”

Michell shared that the South Asian community was aware of the contradictions between law and treaty and planned to protest to the Viceroy in India and to air grievances in the Indian press. He also noted the Bank’s “direct interest in the matter.” The Bank had suffered “damage and loss... by virtue of the foregoing breach of treaty obligations” because it had money invested in properties, the sale of which had been disallowed to an “Arab” purchaser.⁵¹⁰ On October 19, Robinson received a second letter,

⁵⁰⁸ “Grievances of Indian Traders,” March 19, 1885, TNA DO 119/21.

⁵⁰⁹ Underlining in the original.

⁵¹⁰ Lewis Michell to Hercules Robinson, October 9, 1885, TNA DO 119/21.

this time from a firm of creditors representing the estate of a family bankrupted by the war of 1880-1881. The creditors, too, had sustained business losses because the sale of landed property to “Arab merchants” was disallowed. They, too, claimed that the law violated the Convention.⁵¹¹

The High Commissioner had already written to the State Secretary of the Republic on October 16, referencing the letter from Michell. Robinson ignored the international legal claims. He said that the Transvaal government had misunderstood the terms of the Colonial Secretary’s acceptance of the Volksraad’s plans. Robinson explained, “the proposed legislation was not to apply to Arab traders or merchants but to Indian or Chinese coolie immigrants,” and he requested an assurance that, “the class mentioned in Mr. Michell’s letter, and especially such as are British subjects, will enjoy the same privileges as are secured by the Convention of London to “all persons other than natives”.”⁵¹²

Robinson wrote to the new Colonial Secretary, Frederick Stanley, on January 20, 1886, to seek assistance after the South African Republic both refused his entreaties and proceeded to justify the law “upon the ground that such legislation was in accordance with the authority conveyed to the Transvaal Government in Lord Derby’s [original] despatch.”⁵¹³ Robinson argued that the law violated Article 14 of the London Convention,

⁵¹¹ Letter to Hercules Robinson, October 19, 1885, TNA DO 119/21.

⁵¹² Hercules Robinson to the State Secretary of the South African Republic, October 16, 1885, TNA DO 119/21.

⁵¹³ Hercules Robinson to Frederick Stanley, Secretary of State for the Colonies, January 20, 1886, TNA DO 119/21.

but only “in its application to Arab traders,” because “it act[ed] with great injustice upon an intelligent, well conducted race of men, many of whom [were] British subjects, and against whom the only complaint [he had] ever heard [was] that by their industry and frugality they [were] able to undersell the local European merchants.” The Transvaal government responded to this apparent impasse by declining to enforce the law, and the Volksraad amended the law during 1886.

The amended law denied voting rights to South Asians but lowered the registration fee for commercial licenses. It allowed South Asians to own property, but only in specified areas, and residential segregation remained in force. Hygiene, the supposed uncleanness of South Asians, became the rationale for residential and commercial segregation. The British government derided this assertion privately. Ralph Williams, the government agent, wrote to Robinson, “outcry as to the dirty habits of the Indians is based on imagination, the mode of living of the Indians being quite as cleanly as that of any section of the inhabitants of the country,” blaming the agitation of white shopkeepers who feared competition.⁵¹⁴ Still, the British government accepted sanitation as a legitimate domestic matter and acquiesced to the new law.

A pattern was set for the interactions among the governments and the peoples involved in these disputes. In the decade after amending the law, the Volksraad passed increasingly discriminatory legislation aimed at South Asian traders and merchants, South Asians aired grievances and petitioned for redress, and the British government

⁵¹⁴ Ralph Williams, Her Majesty’s Agent, to Hercules Robinson, October 22, 1888, TNA DO 119/21.

conciliated, and the overall situation slowly deteriorated. Government offices in the Republic, at the state and municipal levels, engaged in arbitrary enforcement of the laws, creating a debilitating uncertainty among South Asian business owners, who never knew whether new licensing, location, or business transfer restrictions would destroy their livelihoods. Race-based pass and transportation laws restricted the movement of South Asians within the Transvaal.

Disputes revolved around a few issues. The Transvaal government claimed the primacy of domestic law and the Republic's right to self-government, while South Asians and the British government argued that the international obligations defined by the Pretoria and London Conventions restricted legislative possibilities. The Volksraad drew a racial distinction between whites and non-whites, while the British government made a value-laden distinction between the capitalist class of merchants and traders and working-class laborers, one that South Asian merchants accepted until 1890. The Volksraad argued from within the model of racial-imperial theorizing. The British government, focused on the future of the empire and animated by Greater British sentiments, found itself torn between sympathy for the racist motives of the colonists and South Asians' imperial-institutionalist claims to rights as British subjects, and who often claiming the protection of their government under the rules of international law.

South Asian traders and merchants regularly submitted petitions, either directly or through lawyers, calling on Her Majesty's Government to enforce the terms of the international agreements. They argued their cases in multiple venues, using varied

governmental pathways, soliciting assistance from the Bombay and Madras governments in India, from the Government of India in Calcutta, from the India and Colonial Offices in London.⁵¹⁵ Dadabhai Naoroji corresponded regularly with South Asians in the Transvaal and in India, and he added his personal support to their cause, while using his position in London to advance their petitions through government channels.⁵¹⁶ His election to Parliament in 1892 only added weight to his claims, made now not only on behalf of South Asians but also in the name of his British constituents. South Asians adopted Gandhi's tactics from Natal, including the structure and basic claims of his petitions, just as colonial governments had borrowed strategies, legal language, and administrative practices from the United States and from one another to achieve segregationist ends.⁵¹⁷

The 1898 resolution of a lawsuit filed by Tayob Hajee Khan Mohamed, a South Asian merchant, brought the contours of the debate into stark relief.⁵¹⁸ The case hinged on the definitions of "residence" and "shop or merchant's business" in the amended 1885

⁵¹⁵ Ralph Williams to Hercules Robinson, October 5, 1888, TNA DO 119/21, describing a petition to the Governor of Bombay; India Office to Colonial Office, March 27, 1889, TNA DO 119/21, urging the Colonial Office to support Indian subjects; Colonial Office to India Office, June 6, 1891, TNA DO 119/22, acknowledging receipt of a petition from Indian traders sent to the Madras government, then to Calcutta, then to London; India Office to Colonial Office, June 30, 1891, TNA DO 119/22, arguing that the Republic's legal definition of "native" can not apply to South Asians.

⁵¹⁶ E.g., Dadabhai Naoroji M. P. to Lord Ripon, Secretary of State for the Colonies, February 4, 1894, TNA DO 119/23; Dadabhai Naoroji to Joseph Chamberlain, Secretary of State for the Colonies, December 9, 1896, TNA DO 119/24.

⁵¹⁷ See, Edmund Fraser, Her Majesty's Agent, to Alfred Milner, Governor-General and High Commissioner, December 31, 1898, TNA DO 119/26; see, also, Lake and Reynolds, *Drawing the Global Colour Line*.

⁵¹⁸ Tayob Hajee Khan Mohamed v. The Government of the South African Republic, August 8, 1898, In Benedictus de Korte (ed.), *Reports of Cases Decided in the High Court of the South African Republic*, Volume V (London, 1911), 168-179.

law. The law clearly restricted residential locations. The Transvaal government enforced the law against commercial locations by equating residences and shops. Mohamed sued, arguing that these were different. The British government was not sanguine about Mohamed's prospects in a Transvaal court. Her Majesty's Agent, Conyngham Greene, wrote to Alfred Milner, the Governor-General and High Commissioner, "however just the Indians' claim may appear to be in pure law, it cannot be overlooked that recent events have rendered the High Court of this State so entirely dependent on the behests of the Government as to render any hope of a decision against the Defendant State Secretary extremely small."⁵¹⁹

The reaction to the ruling against Mohamed, even in Transvaal government quarters, was "one of astonishment."⁵²⁰ Justice Esser's opinion argued that South Asians were not "natives" under the Convention of London but that this did not matter because they were "colored" under Transvaal law, and Transvaal law maintained racial segregation. Further, when domestic law and international agreements clashed, domestic law took precedence, a principle Milner admitted the British government could not accept, and one that overturned customary international legal relations.⁵²¹

The British government and the Republic had reached another impasse, but the lasting impact of these disputes, which shaped imperial debates about these issues after

⁵¹⁹ Conyngham Greene to Alfred Milner, March 19, 1898, TNA DO 119/25.

⁵²⁰ Edmund Fraser to Alfred Milner, August 24, 1898, TNA DO 119/25.

⁵²¹ Conyngham Greene to F. W. Reitz, Transvaal State Secretary, June 11, 1898, TNA DO 119/25; Edmund Fraser to Alfred Milner, October 19, 1898, TNA DO 119/26.

the South African War, can be found in the alteration in merchants' strategies between 1888 and 1890. South Asian traders and merchants initially accepted the distinction between the capitalist and working-classes, requesting support for their rights. Ralph Williams, writing to H. B. Loch, the High Commissioner, on January 29, 1890, identified a shift in the content of their claims. They were now claiming full rights as British subjects for all South Asians in the Transvaal. This led the British government to re-open discussions about the government's position on the matter.

Williams, who, in the past, had stated that the law was working as intended without offering his opinion on the effects of the law, took this opportunity to do so. He wrote that South Asians were British subjects suffering the "gravest hardships," that they had arrived in the colony in an orderly fashion and rightly relied on British protection, that they had invested large sums of money, that the "criminal courts show very few of their people in its records," that South Asians' businesses were cleaner than white-owned shops, and that it was "utterly untrue that they demoralize the white population by whom they are surrounded." South Asians were being "subjected to the petty tyranny of minor officials" every day.⁵²² Eight months later, Mr. Campbell, a lawyer for South Asian traders, wrote to the Colonial Office that, "official irritation and coercion... proceeds apace," asking whether the Colonial Office would permit race or color to convert British subjects into aliens under the law.⁵²³

⁵²² Ralph Williams to H. B. Loch, High Commissioner, January 29, 1890, TNA DO 119/21.

⁵²³ Mr. Campbell, Advocate for South Asian traders, to Colonial Office, August 15, 1890, TNA DO 119/21.

The petition written by five “Indian Memorialists” to the Colonial Office and the Queen on September 30, 1892, is worth quoting at length.⁵²⁴ The authors wrote when the Volksraad was contemplating banishing all non-white residents from the towns to make a “not unreasonable request for intervention” in support of their “liberties and welfare.” They described themselves as “Natives of the great Indian Empire, of which Your Gracious Majesty is the beloved Empress and their ever-watchful and loving Mother.” The language of familial bonds, the idea of Britain as the mother country was common in Greater Britain theorizing. The traders’ use of familial imagery erodes the salience of racial distinctions in favor of institutional-imperial unity. They recognized that they resided in “a land beyond British jurisdiction,” a foreign land, but they claimed “the continued protection of the British flag” because of a “recognized [British] Sovereignty or Suzerainty over the [Transvaal] State.” The traders clearly understood the legal distinctions surrounding the international and imperial constitutional issues that affected British-Transvaal relations. They immediately cited the “protection to all of Your Majesty’s subjects” promised in the Pretoria Convention of 1881.

They inverted the common “standard of civilization” trope favored by international and imperial legal theorists to argue that, “no civilized government has at any time decreed an iniquitous measure of this character to oppress and harass one particular section of the community on the score of a different nationality.” Their vision of a composite, multi-national empire became the standard of civilization to which the

⁵²⁴ Indian Memorialists to the Colonial Office and the Queen, September 30, 1892, TNA DO 119/22.

British government should aspire. The future of the empire lay not in the colonists' racial-imperialism or in the Greater Britain theorists' racial-isopolitanism but in a more expansive idea of the common good, if British subject-hood were to possess any significant value or meaning. They did not contest the Transvaal government's right to apply racially oppressive laws,

against other Asiatics or against those who are far below [South Asians] in the social scale, [but] they felt that such a general and indiscriminate enactment as they refer to—touching as it does their most cherished and precious right of free citizenship is, besides being a breach of a solemn engagement vouchsafed by a civilized government, a direct violation of the International law of nations, and an open and undisguised insult to a portion the community, which in point of intelligence and refinement is not one whit worse than the majority of the white residents of the South African Republic.

The traders claimed not just subject-hood but free citizenship, and they called the civilizational status of the British government into question. How could the British government embody civilization, if it acquiesced in the arbitrary and capricious disregard of its citizens' rights? What would be the cost to British prestige, if the government tolerated insults to members of the imperial community, which extended beyond, in the eyes of the traders, Seeley's narrow racial constitution of the national community? The traders, after all, were claiming a shared British nationality on the basis of language, laws, and interests. Race was the only remaining factor. The traders' direct reference to international law spoke to accepted rights, even duties, of states to protect their subjects abroad.

According to the international lawyer Robert Phillimore, “[t]reaties [were] the written portion of that Law which [bound] together the Society of States.”⁵²⁵ States of “good breeding,” like people exemplifying that quality, fulfilled their agreements. International law recognized the rights of a state to intervene in another state to oppose immoral acts, “so inconsistent with the character of a moral being as to constitute a public scandal.”⁵²⁶ The “maltreatment” of British Indians was a violation of the “Comity of nations” and a cause for Britain to “interfere for [subjects’] protection” given that the injustices were clear and perpetrated by the local government.⁵²⁷ The legislated inequality suffered by South Asians at the hands of supposedly civilized colonists should have spurred the British government to more forceful action.⁵²⁸

The traders noted that even “a certain portion of the English residents,” those focused only on accumulating wealth, “with a violent antipathy to colour, born of the bitterest prejudice—as undeserved as it is unworthy of true British sentiments—ha[ve] confused Your Memorialists with all other coloured persons.” India itself, “its civilization and its institutions [should have been] a standing rebuke to this race antipathy—this inhuman and unchristian [*sic*] feeling.” British inaction had been noticed in the Indian press and among the larger population, creating “some suspicion and distrust as regards the reality of British protection to their fellow countrymen.” They end the petition with

⁵²⁵ Robert Phillimore, *Commentaries upon International Law*, Volume II, third ed. (London, 1882), 69.

⁵²⁶ William Edward Hall, *International Law* (Oxford, 1880), 245.

⁵²⁷ Phillimore, *Commentaries upon International Law*, 3-4.

⁵²⁸ John Westlake, *Chapters on the Principles of International Law* (Cambridge, 1894), 101-103.

reference to federationist desires, unable to imagine why the potential “fusion of the white races” and “unification and federation of the several States” in southern Africa should require their “extinction as a unit of the population of this country,” especially when, at the same time, South Asians were laboring in Natal, serving as troops under the British South Africa Company, and contributing to the British East Africa Company’s development of eastern Africa.

The traders’ petition did little to change the course of events in the South African Republic, despite the compelling presentation. Colonial exclusion, South Asian protests, and imperial vacillation spread beyond the Transvaal. The situation in the Orange Free State had been equally oppressive during the same period, but no treaty or convention governed international relations between Britain and the Free State, and the British government allowed the Free State to legislate exclusion with minimal opposition.⁵²⁹ The Australasian colonies noticed the pattern and debates about federation in 1891, 1897, and 1898 featured discussions about the constitutional structure best suited to exclusion.⁵³⁰

South Asians’ petitions to various governments to claim the legal protections that accompanied imperial subject-citizenhood for Indians in southern Africa occurred alongside efforts to compel the imperial recognition of South Asians’ political interests and the legal recognition of the Indian state starting in the mid-1880s, when the idea of a

⁵²⁹ Lord Ripon to H. B. Loch, February 16, 1894, TNA DO 119/36.

⁵³⁰ See, for example, *1891 Australasian Federation Conference Debates*, April 3, 1891, 703, the discussion among Mr. Deakin, Sir Samuel Griffith, and Mr. Adye Douglas; *1898 Australasian Federation Conference, Third Session, Debates*, March 3, 1898, for lengthy discussions of citizenship and race.

colonial conference attracted interest. The Imperial Federation League, founded in 1884 with the active involvement of John Seeley, was the organizational locus of federation-related theorizing through the 1890s.⁵³¹ The League never advocated a specific structure for federation or advanced any particular plan. The members, spread throughout the empire, held various opinions about the matter, ranging from the creation of an imperial council of extra-parliamentary advisors, to parliamentary representation for the colonies in London, to the development of a supra-parliamentary chamber in which Britain and the colonies would become separate and equal state members.⁵³²

John Kendle, studying the five conferences held between 1887 and 1911, highlighted the wide range of opinions among federationists, noting a lack of conflict between “centralists” and “autonomists,” or between “arch-imperialists” and defenders of colonial rights. Instead, and especially after 1900, this time was “one of flux and constant adaptation to changing circumstances and pressures by all those interested in imperial affairs and organization.”⁵³³ The League, capitalizing on growing interest in collective imperial defense, proposed a formal conference at the time of the Indian and Colonial Exhibition in August 1886, and the first Colonial Conference occurred the following year, at the time of Queen Victoria’s Golden Jubilee.⁵³⁴ The League’s request to attend was

⁵³¹ John Edward Kendle, *The Colonial and Imperial Conferences, 1887-1911: A Study in Imperial Organization* (London, 1967).

⁵³² Bell, *The Idea of Greater Britain*, 14.

⁵³³ Kendle, *The Colonial and Imperial Conferences*, 217.

⁵³⁴ “Imperial Federation, Report of the Deputation to the Marquess of Salisbury from the Imperial Federation League,” August 26, 1886, The National Archives (TNA), Kew, U.K., Colonial Office Files (CO) 323/366/15482.

denied, because planners wished to convene the colonial and imperial governments to discuss practical matters of common concern.⁵³⁵ State representatives addressed imperial defense, intra-imperial communications, and trade relations, while eschewing discussions about imperial-constitutional relations.⁵³⁶

South Asians living in London learned about the Conference in the newspaper, “called a delegate meeting of all the existing Indian Societies and organizations” in Britain, and formed a Committee comprising “gentlemen chosen from the different Presidencies and Provinces of India” as a “representative body... duly authorized” to petition for the right to attend. The memorialists argued that imperial defense, communications, trade, and emigration were “in every respect vital to the interests of the native non-official Community of India and [that] the voices of its direct representatives [were] calculated to facilitate the arrival at a practical and satisfactory result in the discussion these matters. They received a terse reply from the Colonial Office on May 9, 1887, stating, “it is not intended that India should be officially represented at the Conference.”⁵³⁷ The next Conference occurred a decade later during the Queen’s Diamond Jubilee in 1897, when the situation for South Asians in the southern African colonies and Australasia had become significantly more tenuous and oppressive. South

⁵³⁵ “Imperial Conference, Resolution Expressing a Wish that the League May be Allowed to Send Delegates,” February 16, 1887, TNA CO 323/370/3054.

⁵³⁶ *Colonial Conference, 1887. Proceedings of the Colonial Conference, 1887. Volume I*, C. 5091 (1887); *Colonial Conference, 1887. Proceedings of the Colonial Conference, 1887. Volume II. (Appendix). Papers Laid before the Conference*, C. 5091-I (1887)

⁵³⁷ “Representation of India at the Conference,” May 11, 1887, TNA CO 323/368/9091.

Asians, by the 1890, had already become weary of the slow pace of reform and the repeated British dismissal of their demands for equality within the empire.

Joseph Chamberlain (1836-1914), the Secretary of State for the Colonies between June 1895 and September 1903, had nudged the colonies in the direction of nonracial immigration criteria in the late 1890s, even though he “quite sympathise[d] with the determination of the white inhabitants... that there [should] not be an influx of people alien in civilization, alien in religion, alien in customs, whose influx, moreover, would most seriously interfere with the legitimate rights of the existing labour population.”⁵³⁸ Chamberlain’s “solution,” the “Natal Formula” of 1897, was partly modeled on U.S. legislation and substituted a dictation test in the European language of the examiner’s choice, which meant English-speaking South Asians could be tested in Czech and denied entry when they failed.⁵³⁹ The Natal Formula became the foundation of the “White Australia” immigration policy in the constitution of the federated Commonwealth of Australia in 1901, as well as for policy in Canada.⁵⁴⁰

South Asians’ voluntary service for Britain as medical personnel during the South African War (1899-1902) exacerbated disagreements with Chamberlain’s pro-colonial sympathies. The Natal government, during the War, opposed the use of native troops “and

⁵³⁸ *Proceedings of a Conference between the Secretary of State for the Colonies and the Premiers of the Self-Governing Colonies, at the Colonial Office, June and July 1897*, C. 8596 (1897), 13-4

⁵³⁹ McKeown, *Melancholy Order*, 185-214; Jeremy Martens, “A Transnational History of Immigration Restriction: Natal and New South Wales, 1896-97,” *The Journal of Imperial and Commonwealth History*, 34 (2006), 323-344.

⁵⁴⁰ Lake and Reynolds, *Drawing the Global Colour Line*; McKeown, *Melancholy Order*; Kama MacLean, “Examinations, Access, and Inequity within the Empire,” *Britain, Australia and India, 1890-1910*, *Postcolonial Studies*, 18 (2015), 115-132.

especially of any Indian troops;” the British government capitulated to this demand, offering the milquetoast response that the colonists’ “ineradicable race prejudice [was] deeply to be regretted.”⁵⁴¹ George Curzon (1859-1925), the Governor-General of India during the war, used South Asians’ wartime assistance to argue that they had been “badly treated in [Natal], and abominably in the [Transvaal]. Now that they have assisted so nobly in the defence of the Colony... it is impossible that these conditions can be allowed to continue.”⁵⁴²

Nevertheless, the British government yielded to colonial racism once again during negotiations of the Treaty of Vereeniging that marked the end of the War. The British negotiators, Lord Kitchener and Alfred Milner, allowed a clause concerning voting rights for non-whites to be altered in a crucial way. Originally, the clause stipulated that natives would not secure voting rights until the grant of responsible government. The phrasing implied that non-whites would receive voting rights, but the text was rewritten so that the “question” of voting rights would not be “decided” until self-government was introduced, leaving the ultimate decision to the white colonists.⁵⁴³ Britain’s repeated surrenders to colonial racism owes much to men like Chamberlain, Alfred Milner, Lord Elgin, a former Governor-General of India (1894-1899) and a future Colonial Secretary (1905-1908), John Morley, a future Secretary of State for India (1905-1910), and Lord Crewe, a future

⁵⁴¹ “Coloured Troops, Employment against Boers,” February 16, 1900, Cabinet Papers (CAB) 41/25/32.

⁵⁴² Quote in Tinker, *A New System of Slavery*, 288.

⁵⁴³ Lake and Reynolds, *Drawing the Global Colour Line*, 212.

Colonial Secretary (1908-1910) and a future Secretary of State for India (1910-1911, 1911-1915), men who espoused the ideal of imperial equality in public but derided the idea privately.⁵⁴⁴

After the South African War, 1902-1917

South Asians continued pressuring the government in India to represent Indian interests, and they attempted to mobilize non-governmental pressure to surmount the race problem. They capitalized on the discontent of men like Lord Curzon and Lord Lansdowne (1845-1927), the Secretary of State for Foreign Affairs during the war and the former Governor-General of both India and Canada, to push for representation in the Colonial Conferences. Lansdowne, for example, said, “[a]mong the many misdeeds of the South African Republic, I do not know that any fills me with more indignation than its treatment of these Indians.”⁵⁴⁵ The Bengal Chamber of Commerce pressured Lord George Hamilton, the Secretary of State for India, to ask for representation in 1902.⁵⁴⁶ The request was accepted after the beginning of the Conference, and Thomas Holderness, an under-secretary in the India Office, attended five of the remaining seven meetings.⁵⁴⁷ John Morley, the Secretary of State for India, Thomas Holderness, and James Mackay, a

⁵⁴⁴ Ronald Hyam, *Elgin and Churchill at the Colonial Office 1905-1908; The Watershed of the Empire-Commonwealth* (London, 1968), 531.

⁵⁴⁵ Quote in Tinker, *A New System of Slavery*, 287.

⁵⁴⁶ “Offices: Council, Trade, India and Law Officers,” TNA CO 323/475/29267.

⁵⁴⁷ “Offices: Miscellaneous (1902 Jan-Mar),” July 15, 1902, TNA CO 323/478/11730.

member of the Council of India, represented India in 1907. India did not participate fully in 1911, but Lord Crewe, then Secretary of State, attended to address Indian immigration to the Dominions on June 19, 1911.

Crewe's discussion of South Asian immigration was conciliatory. He described the social and economic aspects of the problem, sympathized with the governments and the people of the colonies, and allowed that they should decide their own immigration policies. He closed his speech, before taking questions, by asking the colonies to "show an accommodating and friendly spirit towards India."⁵⁴⁸ Herbert Asquith (1852-1928), the Prime Minister (1908-1916), described a new attitude towards imperial unity in 1911, highlighting "the value of elasticity and flexibility in our Imperial organization."⁵⁴⁹ The Conferences of 1902, 1907, and 1911 set precedents for the inclusion of India and for the discussion of issues affecting India that laid the groundwork for the participation of India as a regular member of the conference system starting in 1917.⁵⁵⁰ Asquith's willingness to loosen the ties between London and the colonies allowed future Secretaries of State and Governors-General greater latitude to pursue policies for India. However, Crewe, for better or for worse, affirmed the nineteenth-century segregationist sensibility of John Robert Seeley.

⁵⁴⁸ "Imperial Conference, 1911. Minutes of Proceedings of the Imperial Conference," Cd. 5745 (1911), 394-412, at 399.

⁵⁴⁹ "Imperial Conference, 1911," Cd. 5745, 21-23.

⁵⁵⁰ "Imperial War Conference, 1917. Extracts from Minutes of Proceedings and Papers Laid before the Conference," Cd. 8566 (1917-18); Resolution VII, passed on April 13, 1917, agreed that India would be "fully represented at all future Imperial Conferences," 4.

Nevertheless, South Asians persisted in decrying the British government's willingness to sacrifice South Asians' rights on the altar of white colonists' racial intransigence. Gopal Krishna Gokhale (1866-1915), a moderate leader in the Indian National Congress, founded the Servants of India Society in 1905 "to promote, by all constitutional means, the national interests of the Indian people."⁵⁵¹ Gokhale, and the Society, became deeply involved in the problem of the treatment of South Asians in the southern African colonies. He received petitions and exchanged letters with Gandhi and other interested parties, and he often mediated between Gandhi and representatives of the Government of India to whom Gandhi seemed intractable.⁵⁵² Gokhale's expertise on the subject and his diplomatic skills led to broad recognition of his expertise on the matter.

Gokhale argued, "[t]he root of our present troubles in the Colonies really lies in the fact that our status is not what it should be in our own country," when speaking at a Town Hall meeting in Bombay on September 9, 1909.⁵⁵³ In December of the same year, at the annual meeting of the Congress, he elaborated on this point, starting with the Congress's constitution. The Congress aimed to secure self-government in India and "participation for our countrymen not only in the burdens and responsibilities of the Empire but also in its privileges on equal terms with those other members."⁵⁵⁴ The

⁵⁵¹ G. K. Gokhale, "The Servants of India Society," In G. A. Nathan (ed.), *Speeches of Gopal Krishna Gokhale*, third ed. (Madras, 1920), 915-923, at 915.

⁵⁵² Nehru Memorial Museum and Library (NMML), New Delhi, India, Servants of India Society Files (SIS) 5, "Indians in South Africa."

⁵⁵³ G. K. Gokhale, "Indians in the Transvaal," in Natesan (ed.), *Speeches*, 744-752, at 752.

⁵⁵⁴ G. K. Gokhale, "The Transvaal Question," in Natesan (ed.), *Speeches*, 722-733, at 723.

problem of status was two-fold, both internal and external, and the struggle in the Transvaal was intimately connected to the struggle in India. Equality was a promise of the British empire, and South Asians could not accept being the subjects of [their] fellow-subjects, the subjects of the white subjects.” He invoked Naoroji’s demand that Government of India represent India, “keep[ing] the interests of the people of this country foremost in [its] mind.”⁵⁵⁵ The time for promises was past. Gokhale demanded “retaliation,” urging that the Government of India end the flow of indentured labor if equal rights were not granted.

He visited the Union of South Africa in 1912 to learn about the continuing problem first-hand. He spoke at the Pretoria Town Hall on November 15, 1912. He had aroused agitation in March of 1912 during a debate in the Legislative Council, calling indenture “a monstrous system, iniquitous in itself, based on fraud and maintained by force,” going on to note that, “[w]herever the system exists, there the Indians are only known as coolies, whatever their position may be.”⁵⁵⁶ He introduced a resolution to ban recruitment in India and overseas. It was supported by all the South Asian members of the Council, except one, the Law Member of the Governor-General’s council, but failed because South Asians were outnumbered by British members. The stark divide among the members surprised and worried the government.

⁵⁵⁵ G. K. Gokhale, “The Transvaal Question,” in Natesan (ed.), *Speeches*, 731.

⁵⁵⁶ Quote in Tinker, *A New System of Slavery*, 320.

Gokhale's tone in South Africa was firm but hopeful and conciliatory. He thanked the Ministers of the Union government for meeting to discuss the problem, and he thanked South Asians' European supporters. He acknowledged that the European community had "all the power," but with that came "the responsibility for the manner in which the affairs of [the] land [were] administered." He ends with an appeal reminiscent of the South Asian Memorialists in 1892: "You owe it to your good name, you owe it to your civilization, you owe it to the Empire of which you are a part, and whose flag stands for justice and freedom and opportunities for progress for all who live under its protection, that your administration should be such that you can justify it in the eyes of the civilized world."⁵⁵⁷

Gokhale filled many roles. He had played the diplomat in South Africa, a gadfly, along with Gandhi, through the Servants of India Society, and a forceful petitioner and advocate for South Asians at home and overseas in his relations with the Government of India. He did not see his work come to fruition, but he continued playing these roles until his death in 1915. Gokhale's resolution in the Legislative Council came relatively early in the tenure of the Governor-General, Lord Hardinge (1858-1944). Hardinge had made his career in the Foreign Office. On June 14, 1910, Wilfred Scawen Blunt wrote, about his appointment that it was, "probably as good a one as the Government could have made. He is friends with Russia and knows something of the East."⁵⁵⁸ Hardinge had served as

⁵⁵⁷ G. K. Gokhale, "A Farewell Speech at Pretoria," in Natesan (ed.), *Speeches*, 734-743, at 742.

⁵⁵⁸ Wilfrid Scawen Blunt, *My Diaries, Being a Personal Narrative of Events, 1888-1914, Part II, 1900-1914* (London, 1920), 325.

ambassador to Russia (1904-1906), after which he negotiated the Anglo-Russian Convention (1907), which delineated spheres of influence in Persia and settled Central Asian relations, relieving pressure in India. John Morley supported his appointment because of this experience.⁵⁵⁹ Hugh Tinker described Hardinge, who served in India from 1910 to 1916, as “the unlikely instrument of the abolition of indenture.”⁵⁶⁰ He had been surprised by Gokhale’s work in the Council in March of 1912.

One year later, during Gandhi’s campaign of civil disobedience in South Africa, Hardinge was shocked by the brutality enacted by the South African government. He gave a speech in which he publicly supported South Asians’ civil disobedience and offered the sympathies of the Indian state and of himself, personally. His support led the South African government to petition for his recall, a possibility that was quietly discussed in London but forgone because of the potential to cause unrest in India. Hardinge moved the government steadily in the direction of abolition for the remainder of his term. The beginning of the First World War stalled discussions about the treatment of South Asians overseas until late in 1915, by which time the main question facing the government was how, not if, to end the system.

That process took two more years, until autumn of 1917, when “indenture had been ended, and declared at an end.”⁵⁶¹ The end of indenture was part of a bigger

⁵⁵⁹ Keith Neilson, *Britain and the Last Tsar: British Policy and Russia, 1894-1917* (Oxford, 1995), 18-19.

⁵⁶⁰ Quote in Tinker, *A New System of Slavery*, 317.

⁵⁶¹ Hugh Tinker, *A New System of Slavery: The Export of Indian Labour Overseas, 1830-1920* (Oxford, 1974), 357.

discussion. South Asians had represented India at the Imperial War Conference in April of 1917. Resolution XXII of April 27, 1917, stated that, “the Conference accepts the principle of reciprocity of treatment between India and the Dominions,” based on “the Memorandum on the position of Indians in the Self-governing Dominions presented by the Indian representatives.”⁵⁶² Seeley’s vision had come to pass. The British government had managed to hold the settler colonies to the empire, barely in the case of South Africa, but at the cost of pushing India away.

Conclusion

Distinct visions of imperial citizenship collided when South Asians migrated to southern Africa and to other white settler colonies. The political-theoretical concept of responsible government was created to defuse tensions between the imperial and colonial governments by allowing domestic political autonomy. Colonial governments claimed that domestic autonomy included the right to discriminate against South Asian subjects of the British empire, many of whom had been indentured laborers, contrary to British law. South Asian petitioners in the Transvaal hoped to elicit support from the Indian and imperial governments for South Asians’ equal rights throughout the empire.

They invoked international law reasonably and properly but ultimately ineffectively. Their petition, and others of its type, merely circulated among the Colonial and India Offices and the relevant local governments. Advocates for South Asians’ rights

⁵⁶² “Imperial War Conference, 1917. Extracts from Minutes of Proceedings and Papers Laid before the Conference,” Cd. 8566 (1917-18); Resolution XXII, 7; Discussion, 117-120; Memorandum, 159-162.

struggled to affect official decisions, and the South African War, followed by the need to integrate the Boer settlers into the empire, exacerbated the British tendency to ignore South Asians' appeals. Political necessity superseded concerns about progressive reform. South Asians were able to secure representation and later participation in the Imperial conferences, which eventually led to recognition of India's right to consultation in imperial foreign relations and reciprocity among the Dominions and India, which created India as a national state within the empire while settling racial disparity as a feature of imperial constitutional law.

Chapter 4

South Asians and the International Relations of the British State

South Asians manipulated European rivalries for their own ends increasingly often between the mid-nineteenth century and the end of the First World War.

International law historian Martti Koskenniemi argued that the legal settlement of the Franco-Prussian War (1870-1871) inaugurated a “short” nineteenth century lasting until 1914. He suggested that an international spirit animated inter-state legal practice during this period, a spirit institutionalized in legal journals, through multilateral diplomatic initiatives, and in efforts both to codify international law and to resolve inter-state disputes with arbitration.⁵⁶³ International administrative unions, in particular, offered greater opportunities for inter-state cooperation by addressing multilateral issues and codifying parts of international law. These unions also opened membership broadly to sovereign states, protected states, and colonies.⁵⁶⁴

The International Telegraph Convention, signed in Paris in May 1865, established the International Telegraph Union, which British India joined in 1869. The formation of the Indian Meteorological Department in 1875 instigated cooperation between British India and the International Meteorological Organization, founded in Vienna in 1873.

British India entered the General Postal Union (1874), later the Universal Postal Union

⁵⁶³ Martti Koskenniemi, “The Legacy of the Nineteenth Century,” In David Armstrong (ed.), *The Routledge Handbook of International Law* (New York, 2009), 141-153.

⁵⁶⁴ Paul S. Reinsch, *Public International Unions, Their Work and Organization: A Study in International Administrative Law* (Boston, 1911); see, also, Douglas Howland, “An Alternative Mode of International Order: The International Administrative Union in the Nineteenth Century,” *Review of International Studies*, 41 (2015), 161-183; F. S. L. Lyons, *Internationalism in Europe, 1815-1914*, (Leiden, 1963).

(1878), in 1876. British India acceded to the relevant conventions within the decade following the debate about the Abyssinian expedition discussed in chapter 1, but only British administrators represented the Indian state in these unions. They did so to achieve British imperial goals, so the integration of the Indian state into these international administrative unions should not be mistaken for steps in the direction of Dadabhai Naoroji's demand that the Government of India represent Indian interests.

Hannah Arendt provided a useful alternative to Koskenniemi's laudatory description of international legal progress after 1871. She described the period beginning in the 1880s "with the scramble for Africa and the birth of the pan-movements" and ending after the First World War in 1919 as a short interlude between the nineteenth and twentieth centuries.⁵⁶⁵ This era of high imperialism, according to Arendt, involved geopolitical jousting among the Powers' far-flung imperial possessions. John Robert Seeley recognized shifting international, political winds in *The Expansion of England*, and appealed to Anglo unity in the early 1880s, partly to offset the rising power of Germany and Russia. If Britain could "hold together in a federal union countries very remote from each other," he argued, it could "take rank with Russia and the United States in the first rank of state, measured by population and area, and in a higher rank than the states of the Continent."⁵⁶⁶

⁵⁶⁵ Hannah Arendt, *The Origins of Totalitarianism*, new edition with added prefaces (London, 1979), 123; see, also, Aydin, *The Politics of Anti-Westernism in Asia*, 39-125.

⁵⁶⁶ Seeley, *The Expansion of England*, 16.

The unification of Germany following the victory of the separate German states signaled the arrival of a new Great Power, which required European revisions of balance-of-power calculations.⁵⁶⁷ The Berlin West Africa Conference (1884-1885) instrumentally created the rules for the European division of Africa. It exemplified the international, multilateral, and legal aspects of geopolitical rivalry. Germany and France called the conference to guide “the scramble in Africa into pacific channels.”⁵⁶⁸ Britain had long controlled much of southern Africa and had invaded Egypt in 1882. British colonial activity in East Africa had opened the door for extensive South Asian settlement.⁵⁶⁹ Germany and France hoped to forestall continued British expansion, and Germany, in particular, opposed the Anglo-world order described by Seeley.⁵⁷⁰

Russia attended the conference, although its interests lay in the Ottoman lands and in further eastward expansion in Asia, and the United States attended, but only because, in general terms, “the issues of trade and navigation discussed there were seen by Washington as relevant to American interests abroad.”⁵⁷¹ The Berlin rules mattered, but political, economic, military, and diplomatic competition shaped the contours of the

⁵⁶⁷ Kennedy, *The Rise and Fall of Great Powers*, especially chapter 5, 194-274; Eric Hobsbawm, *The Age of Empire, 1875-1914* (London, 1987).

⁵⁶⁸ Koskenniemi, *The Gentle Civilizer of Nations*, 121-127, at 123.

⁵⁶⁹ “Memorandum Regarding Banians or Natives of India in East Africa,” March 31, 1873, TNA Foreign Office files (FO) 881/2270; Blyth, *The Empire of the Raj*; Metcalf, *Imperial Connections*.

⁵⁷⁰ Kris Manjapra, *Age of Entanglement: German and Indian Intellectuals across Empire* (Cambridge MA, 2014).

⁵⁷¹ Kennedy, *The Rise and Fall of Great Powers*, 194.

eventual African partition.⁵⁷² Russia invoked pan-Slavic unity as a pretext for its expanded interventions in the Ottoman empire, especially in the 1880s after the Eastern Crisis and Gladstone's rise to power. Imperial competition continued to intensify, and South Asians took advantage of the real and perceived precariousness of Britain's global status.

This chapter examines South Asians' international politico-legal response to imperial rivalries and global geopolitical upheaval from the late nineteenth century until the Paris Peace Conference following the First World War. It extends the third chapter's focus on the imperial-nationalizing process of devolving power to particular peoples within territorially delimited states, and it borrows, again from Sinha, the identification of the immediate pre- and post-war period between roughly 1910 and 1920 as a conjunctural moment, when "the different social, political, economic, and ideological contradictions at play" with respect to a global nationalizing process coalesced "to give [the] period its distinctive [international legal and institutional] shape."⁵⁷³ The chapter argues that South Asians and the "Indian question" determined British geopolitical and foreign-policy considerations and the development of international law during and after the First World War.

The chapter begins by discussing the international geopolitical landscape between roughly 1895 and 1907. Imperial geopolitical rivalries elucidated the importance of the

⁵⁷² Koskenniemi, *The Gentle Civilizer of Nations*, 121-127; John Darwin, *After Tamerlane: The Rise and Fall of Global Empires, 1400-2000* (New York, 2008), 304-318.

⁵⁷³ See, Sinha, "Premonitions of the Past," 824.

nascent inter-state institutional order and led to the use of inter-state diplomacy to resolve imperial disputes. The confluence of global events and the radicalization of South Asians' political and legal thought during this period set the stage for much more aggressive South Asian tactics to achieve the goal of international recognition as rights-bearing citizen-subjects of the empire. The major portion of the chapter uses two issues—the effects on Anglo-American relations of South Asians' migration to the United States and the international-legal ideological and political interventions of South Asians in the late stages of Anglo-Ottoman relations. This places Indian, imperial, and international constitutional debates in the early twentieth century up to 1919 into a single analytical field to explain both Britain's promise of Indian self-government and the imperial and international recognition of the Indian state's autonomous legal personality.

The Imbrication of Indian, Imperial, and Global Order, 1890-1907

South Asians' international legal discourse and politics had aimed, heretofore, to influence British imperial thought and administration in relation to the ways that the Government of India represented the interests of the South Asian subject-citizens of the Crown. The repeated denial of “British justice” both in India and throughout the empire led to increasingly radicalized opposition to British rule. South Asians leveraged the global geopolitical circumstances and British fears of relative decline to redouble their efforts to overturn the international legal order. Bal Gangadhar Tilak (1856-1920), a lawyer, social reformer, and a journalist, introduced political meaning into local religious

festivals and celebrations of Shivaji, the Maratha, Hindu ruler, which led Aurobindo Ghose (1872-1950), a philosopher and spiritual reformer, to assert that Tilak “Indianised the [nationalist] movement and brought it to the masses.”⁵⁷⁴ The British saw him as reactionary and extremist, “the father of Indian unrest,” and a man “destined to become one of the most dangerous pioneers of disaffection” among South Asians.⁵⁷⁵

Tilak, and others, converted Shivaji (d. 1680), a seventeenth-century Indian ruler, into a Maharastrian patriot and a proto-nationalist, a defender of the Indian people and a warrior opposed to foreign subjugation, in Tilak’s case, the Muslim Mughal rulers. Reformers connected Shivaji’s putatively universalizing Hinduism, a creation of the eighteenth century, with the modern nationalist movement’s need to portray both Muslims and the British as interlopers.⁵⁷⁶ These steps politicized a pre-existing socio-political reform movement and created an oppositional form of cultural or civilizational nationalism that inverted the ideology of the standard of civilization.⁵⁷⁷

The British perceived, rightly, increasing disaffection among South Asians but responded with repressive measures, including easing the prosecution of sedition in 1898.

Act IV read, “[w]hoever by words, either spoken or written, or by signs, or by visible

⁵⁷⁴ Aurobindo Ghose, “Bal Gangadhar Tilak: An Appreciation,” In *Bal Gangadhar Tilak: His writings and Speeches*, third ed. (Madras, 1922), 6; Sanjay Seth, “The Critique of Renunciation: Bal Gangadhar Tilak’s Hindu Nationalism,” *Postcolonial Studies*, 9 (2006), 137-150; Richard Cashman, *The Myth of the Lokamanya: Tilak and Mass Politics in Maharashtra* (Berkeley, 1975).

⁵⁷⁵ Valentine Chirol, *Indian Unrest* (London, 1910), 41, 40.

⁵⁷⁶ James Laine, *Shivaji: Hindu King in Islamic India* (Oxford, 2003).

⁵⁷⁷ See, for similar dynamics in other movements, Kenneth W. Jones, *Socio-Religious Reform Movements in British India* (Cambridge, 1989).

representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards Her Majesty or the Government established by law in British India.”⁵⁷⁸ The crime originated in attempts to make others, “adversely disposed towards the Sovereign or his government; or, in other words, [to] turn the people against their rulers.”⁵⁷⁹ The British traced the origins of widespread sedition, in part, to Tilak’s early work.⁵⁸⁰ They later discovered in Vivekananda’s ideas, the “exaggerated praise of India and condemnation of the West,” which “more than anything else was the cause of the ruinous folly which marked so much of the teaching and the action of the anarchists.”⁵⁸¹

The governments in India and in Britain often over-reacted to new movements, displaying what C. A. Bayly termed “information panic,” where an awareness that the government lacked knowledge created a belief that situations must be worse, or more dangerous, than they seemed.⁵⁸² George Nathaniel Curzon (1859-1925), the Governor-General from 1899 until 1905, met the rise of supposed political extremism by expanding

⁵⁷⁸ Walter Russell Donogh, *A Treatise on the Law of Sedition and Cognate Offences in British India* (Calcutta, 1911), 71.

⁵⁷⁹ Donogh, *A Treatise on the Law of Sedition*, 73.

⁵⁸⁰ “Indian and Egyptian Conspirators in England, and the Remedy,” Directorate of Intelligence, Special Report No. 3, July 1919, TNA CAB 24/83/56; *East India (Sedition Committee, 1918). Report of the Committee Appointed to Investigate Revolutionary Conspiracies in India*, Cd. 9190 (1918); James Campbell Ker, No. 372, *Confidential, Political Trouble in India, 1907-1917* (Calcutta, 1917).

⁵⁸¹ Ker, *Political Trouble in India*, ix.

⁵⁸² C. A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge, 1996), 143, 149, 171-173; D. K. Lahiri Choudhury, “Sinews of Panic and the Nerves of Empire: The Imagined State’s Entanglement with Information Panic, India c. 1880-1912,” *Modern Asian Studies*, 38 (2004), 965-1002.

existing intelligence collection practices to create a surveillance and intelligence network that was coordinated through international channels.⁵⁸³ Fear created self-doubt; some among the British even argued that English-language education encouraged sedition.⁵⁸⁴ A general crack-down on political protest, and especially the punishment of deportation, reinforced extremist claims about a deficient British character that led to hollow promises of British justice.⁵⁸⁵

Henry J. S. Cotton (1845-1915), a long-time member of the Indian Civil Service from the fifth generation of his family to serve in India, articulated the moderate response while presiding, at Naoroji's insistence, at the Twentieth Indian National Congress annual meeting in Bombay in 1904. He described the new, patriotic ideal, India "as a federated portion of the dominion of the great British Empire... on a fraternal footing with the self-governing Colonies, each with its own local autonomy, cemented together under the aegis of Great Britain."⁵⁸⁶ This ideal, expressed concisely by Cotton, recapitulated Naoroji's civilizational and international legal vision of 1860s India. Cotton's proclamation also

⁵⁸³ Popplewell, *Intelligence and Imperial Defence*; Radhika Singha, "Punished by Surveillance: Policing 'Dangerousness' in Colonial India, 1872-1918," *Modern Asian Studies*, 49 (2015), 241-269; Michael Christopher Low, "Empire and the Hajj: Pilgrims, Plagues, and Pan-Islam under British Surveillance, 1865-1908," *International Journal of Middle East Studies*, 40 (2008), 269-290.

⁵⁸⁴ A. P. Sen, "Does English Education Breed Sedition in India?," *Westminster Review*, 158 (1902), 168-178.

⁵⁸⁵ Surendranath Banerjea, *A Nation in the Making: Being the Reminiscences of Fifty Years of Public Life* (London, 1927); see, for "extremist" examples, B. G. Tilak, "The Political Situation," In *Bal Gangadhar Tilak: His Writings and Speeches*, third ed. (Madras, 1922), 42-47; Bipin Chandra Pal, "The Gospel of Swaraj," In *Speeches of Sri. Bipin Chandra Pal (Delivered at Madras)* (Madras, 1907), 29-54; Lala Lajpat Rai, *Lala Lajpat Rai: The Man in His Word* (Madras, 1907). Tilak and Lajpat Rai suffered deportation.

⁵⁸⁶ Sir Henry Cotton, "Congress Presidential Address," In *The Indian National Congress, Containing An Account of Its Origin and Growth, Full Text of all the Presidential Addresses, Reprint of all the Congress Resolutions, Extracts from all the Welcome Addresses, Notable Utterances on the Movement, and Portraits of all the Congress Presidents* (Madras, 1910), 786-815, at 801.

coincided, roughly, with new debates about potential imperial-economic protection schemes to aid India's industrial sector, an idea related to Naoroji's neo-mercantilist model of the discrete, Indian state within the empire.⁵⁸⁷

The political dynamic changed crucially after Lord Curzon partitioned the province of Bengal in 1905, a decision reversed only in 1911.⁵⁸⁸ Some South Asians turned away altogether from a belief in the ideal of British justice and the promises of British institutions. Political-nationalist ideas expanded and a separate global, revolutionary terrorist movement emerged.⁵⁸⁹ Revolutionaries responded to the partition by deciding that secessionist violence, rather than the propaganda of self-reliance or the boycott of British goods, was required for South Asians' political advancement.⁵⁹⁰ Shayam Krishnavarma founded the Indian Home Rule Society, dedicated to India's independence, in London in 1905; it operated from his house in Highgate, which he opened to South Asian students.⁵⁹¹ Revolutionary movements dedicated to the overthrow

⁵⁸⁷ Valentine Chirol, *Indian Unrest* (London, 1910), 274-279; V. G. Kale, *Indian Industrial and Economic Problems*, second ed. (Madras, 1917? [1912]), especially chapter XII, "Indian Protectionism;" Lala Lajpat Rai, *Young India: An Interpretation and a History of the Nationalist Movement from Within*, Foreword by J. T. Sunderland (New York, 1916), 167-170; George Louis Beer, *The English-Speaking Peoples: Their Future Relations and Joint International Obligations* (New York, 1917), 235-240.

⁵⁸⁸ See, Sumit Sarkar, *The Swadeshi Movement in Bengal, 1903-1908* (Calcutta, 1973).

⁵⁸⁹ See, Richard Popplewell, *Intelligence and Imperial Defence: British Intelligence and the Defence of the Indian Empire, 1904-1924* (London, 1995); Peter Heehs, *The Bomb in Bengal* (Delhi, 1993).

⁵⁹⁰ See, Sumit Sarkar, *The Swadeshi Movement in Bengal, 1903-1908* (Calcutta, 1973).

⁵⁹¹ Janaki Bakhle, "Savarkar (1883-1966), Sedition and Surveillance: The Rule of Law in a Colonial Situation," *Social History*, 35 (2010), 51-75.

of British rule in India existed around the world.⁵⁹² Naoroji set aside the call for representative government, in 1906, to demand “‘Self-government’ or *Swaraj* like that of the United Kingdom or the Colonies.”⁵⁹³

The so-called extremist, nationalist activists, Bal Gangadhar Tilak, Bipin Chandra Pal (1858-1932), and Lala Lajpat Rai (1865-1928) all credited Naoroji for shifting the demand of the Indian National Congress from expanded participation for South Asians within a British-Indian government to *swaraj*, or self-rule. Naoroji’s leadership and liberal frustrations, civilizational nationalism and revolutionary terrorism, and British information panic and repression explain part of the change. Naoroji had become interested in socialism after the turn of the century, in the forms of the new British Labour Party and the international socialist movement, and hopeful about the political-reformist potential of transnational, global labor alliances.⁵⁹⁴ He had attended the Sixth Congress of the Second International, an organization of socialist and labor parties, in Amsterdam in August of 1904. The Congress of 1896 had endorsed the ideal of national self-determination and, in 1904, passed a resolution condemning colonial expansion. Naoroji, maintaining his characteristic moderation, presented India’s case for self-government within the British empire but now to the working classes of the world.⁵⁹⁵ His

⁵⁹² Tilak Raj Sareen, *Indian Revolutionary Movement Abroad (1905-1921)* (New Delhi, 1979); Maia Ramnath, *Haj to Utopia: How the Ghadar Movement Charted Global Radicalism and Attempted to Overthrow the British Empire* (Berkeley, 2011); Manjappa, *Age of Entanglement*; Horst Kruger, “Indian National Revolutionaries in Paris before World War I,” *Archiv Orientalni*, 45 (1970), 329-339.

⁵⁹³ Dadabhai Naoroji, “Congress Presidential Address,” In *The Indian National Congress*, 854-886, at 863.

⁵⁹⁴ Masani, *Dadabhai Naoroji*, 426-439.

⁵⁹⁵ Claeys, *Imperial Sceptics*, 138-140.

demand for self-government, in 1906, also placed India and South Asians firmly within the context of the extractive exploitation of global labor, when he condemned the poor treatment of South Asians in southern Africa.

Changes in India occurred simultaneously with an imperial and international geopolitical transformation. Elite South Asians, businessmen and princes, developed an intellectual familiarity with Japanese political thought while traveling, where they were exposed to Japanese pan-Asianist visions of civilization and order in Japan starting in the 1880s.⁵⁹⁶ Material inter-relations deepened a few years later. The beginning of the Sino-Japanese War in 1894 coincided with the opening of the Yokohama Specie Bank's main Indian office in Bombay, the result of growing economic relations between India and Japan, and, incidentally, with the beginning of the reign of Tsar Nicholas II (1894-1917) in Russia. Gilbert John Elliot-Murray-Kynynmound (1845-1914), Lord Minto, the future Governor-General of Canada (1898-1904) and of India (1905-1910), called Japan's victory "the ratification of another Power in the East... capable... of solidly grasping and understanding the spirit of [western] civilization."⁵⁹⁷ He opined about the other Power to which he referred, the Ottoman empire, that Britain had "mismanaged the Turks," that

⁵⁹⁶ See Green, "Shared Infrastructures;" R. P. Anand, "Family of "Civilized" States and Japan: A Story of Humiliation, Assimilation, Defiance and Confrontation," *Journal of the History of International Law*, 5 (2003), 1-75; Esenbel, "Japan's Global Claim to Asia;" Duara, "The Discourse of Civilization."

⁵⁹⁷ Quote in John Buchan, *Lord Minto: A Memoir* (London, 1924), 103; see, also, Sidney Lewis Gulick, *The White Peril in the Far East: An Interpretation of the Significance of the Russo-Japanese War* (New York, 1905).

“common sense and little friendliness” would have helped the sultan and his subjects and provided Britain with “an immensely strong ally in the East.”⁵⁹⁸

The Sino-Japanese war initiated “a period of instability in the Far East that provided the focus of Anglo-Russian relations for the next decade.”⁵⁹⁹ Lord Rosebery (1847-1929), the British Prime Minister in 1894 and 1895, said, “[w]e have hitherto been favoured with one Eastern question... but of late a Far Eastern question has been superadded, which [is]... in the dim vistas of futurity, infinitely graver than even that question.”⁶⁰⁰ Lord Curzon described Japan as, “the Britain of the Far East,” possessed of the same desire to exercise, “a powerful influence over the adjoining continent” without being “necessarily involved in its responsibilities.”⁶⁰¹ Japan weakened China, a situation exploited by Russia and Germany, while Japan’s obvious economic and military power eradicated Britain’s “almost undisputed ascendancy in the Far East.”⁶⁰²

The Japanese government, throughout the war, publicized its careful adherence to the “civilized” standards for belligerency laid down by international law and argued for the acceptance of Japan’s status as a Great Power and as a member of the international family of nations.⁶⁰³ Minto had observed this, too, calling Japan’s “self-restraint probably

⁵⁹⁸ Quote in Buchan, *Lord Minto*, 104.

⁵⁹⁹ Keith Neilson, *Britain and the Last Tsar: British Policy and Russia, 1894-1917* (Oxford, 1995), xiii.

⁶⁰⁰ Quote in Valentine Chirol, *The Far Eastern Question* (London, 1896), 1.

⁶⁰¹ George N. Curzon, *Problems of the Far East: Japan—Korea—China*, New and Revised ed. (London, 1896), 392.

⁶⁰² Chirol, *The Far Eastern Question*, 2.

⁶⁰³ Sakuye Takahashi, *Cases on International Law during the Chino-Japanese War*, with a Preface by Professor T. E. Holland and an Introduction by Professor J. Westlake (Cambridge, 1899).

after their great success the strongest card they could [have] play[ed].”⁶⁰⁴ Japan’s bid for international recognition succeeded among European international legal theorists.⁶⁰⁵

Political and diplomatic acknowledgement of Japan’s status arrived with the conclusion of the Anglo-Japanese Alliance in 1902, an agreement that conceded east Asia as Japan’s sphere of influence and provided for the use of Indian troops in the event that the mutual defense provisions of the agreement were invoked.⁶⁰⁶

The degradation in Anglo-Ottoman relations that followed the Eastern Crisis of after 1878 accelerated following Turkish massacres of Armenian Christians in 1894 and 1896. Malcolm MacColl, Ameer Ali’s earlier antagonist, again wrote jeremiads against the barbaric Muslim, who understood nothing but force and could not be trusted to wield power fairly in relations with non-Muslims.⁶⁰⁷ Ameer Ali warned that the “demerits of the Turkish Government [had] been cleverly mixed up in the controversy about Islam, to discredit one by showing up the faults of the other.”⁶⁰⁸ The goal of these categorical

⁶⁰⁴ Quote in Buchan, *Lord Minto*, 104.

⁶⁰⁵ T. E. Holland, *The Elements of Jurisprudence*, ninth ed. (London, 1900), 373; see, also, Arnulf Becker Lorca, “Universal International Law: Nineteenth-Century Histories of Imposition and Appropriation,” *Harvard International Law Journal*, 51 (2010), 475-552; Anand, “Family of “Civilized” States and Japan.”

⁶⁰⁶ “The Treaty with Japan,” May 30, 1905, TNA CAB 41/30/20; “The Treaty with Japan,” August 8, 1905, TNA CAB 41/30/32; “The Anglo-Japanese Alliance,” March 17, 1906, TNA FO 371/85/9356; Alfred Thayer Mahan, *Retrospect & Prospect: Studies in International Relations Naval and Political* (Boston, 1902), 149, 186-187; Esenbel, “Japan’s Global Claim to Asia.”

⁶⁰⁷ Malcolm MacColl, *The Sultan and the Powers* (London, 1896); Malcolm MacColl, “Episodes in Foreign Policy, 1844-96,” *The Anglo-Saxon Review*, 8 (1901), 33-49; see, also, on the Armenians’ use of Russo-Turkish rivalry to pursue their own goals, Stephen B. Reigg, “Imperial Challengers: Tsarist Responses to Armenians Raids into Anatolia, 1875-1890,” *The Russian Review*, 76 (2017), 253-271; on humanitarianism and the British empire, Michelle Tusan, ““Crimes against Humanity”: Human Rights, the British Empire, and the Origins of the Response to the Armenian Genocide,” *The American Historical Review*, 119 (2014), 47-77.

⁶⁰⁸ Ameer Ali, “Islam and Canon MacColl,” *The Nineteenth Century*, 38 (1895), 778-785, at 783.

denunciations of Islam was to place Muslims “beyond the pale of civilised humanity... [and] Moslem States outside the *jus gentium*,” the law of nations.⁶⁰⁹

The Japanese victory in the Russo-Japanese War (1904-1905) sealed Japan’s primacy in east Asia. The victory was interpreted as a sign of the possibility for non-Western and non-white modernity, civilization, and strength. It fostered admiration for Japan in both the Ottoman and British-Indian empires.⁶¹⁰ Pherozechah Mehta (1845-1915), a prominent Bombay lawyer and politician from a Parsi merchant family, wrote:

All Asia [marveled] at the victories of Japan over a European power. Their effects were far-reaching. New possibilities seemed to spring into existence, there were indications of a popular demand in China, in Persia, in Egypt and in Turkey. There was an awakening of the Eastern world, and though to outward appearances, India was quiet, in the sense that there was at the moment no visible acute political agitation, she had not escaped the general infection.⁶¹¹

The Indian government responded by attempting to fill perceived lacunae in bureaucratic knowledge, as with the monitoring of the increasing numbers of South Asian students in Japan, who were migrating to pursue scientific and manufacturing studies.⁶¹² The focal point for Anglo-Russian competition shifted out of east Asia after 1905. The Anglo-Russian Convention (1907), possible after the Russian defeat, settled some British

⁶⁰⁹ Ameer Ali, “Islam and Its Critics,” *The Nineteenth Century*, 38 (1895), 361-380, at 362.

⁶¹⁰ Aydin, *The Politics of Anti-Westernism in Asia*, 71-92; Ramparkash Dua, *The Impact of the Russo-Japanese (1905) War on Indian Politics* (Delhi, 1966); Stolte and Fischer-Tine, “Imagining Asia in India;” Renee Worringer, ““Sick Man of Europe” of “Japan of the Near East”?: Constructing Ottoman Modernity in the Haidian and Young Turk Eras,” *International Journal of Middle Eastern Studies*, 36 (2004), 207-230; Esenbel, “Japan’s Global Claim to Asia;”

⁶¹¹ Quote in H. P. Mody, *Sir Pherozechah Mehta: A Political Biography*, volume II (Bombay, 1921), 566.

⁶¹² “Indian Students: Correspondence,” 1909-1917, TNA FO 345/52.

geopolitical questions in Persia, but Anglo-Russian tensions never completely abated, merely returning to familiar ground in Persia and the Balkans in the period up to 1917.⁶¹³

The Japanese victory over China in 1895 had not been Britain's only challenge. It faced simultaneous geopolitical obstacles in the western hemisphere and in southern Africa. A simmering, mid-nineteenth-century boundary dispute between Britain and Venezuela erupted in 1895, when the Venezuelan government appealed to the United States for assistance opposing British territorial claims, citing the Monroe Doctrine, by which the U.S. government forbade European imperial intervention in the western hemisphere.⁶¹⁴ Global economic depression and the closing of frontiers, which ended settlement opportunities, including the possibility for further westward expansion in the continental United States, exacerbated the Venezuelan problem.⁶¹⁵ President Grover Cleveland threatened war, which provoked Canadian fears of a U.S. invasion.⁶¹⁶ The German government simultaneously provided armaments and encouraged separatism in the Transvaal among the Dutch-descended, Boer settlers, who had solicited the active intervention and assistance of Germany, just as they would seek U.S. intervention during

⁶¹³ Neilson, *Britain and the Last Tsar*; Jennifer Siegel, *Endgame: Britain, Russia and the Final Struggle for Central Asia* (London, 2002).

⁶¹⁴ Walter LaFeber, *The New Empire: An Interpretation of American Expansion, 1860-1898*, Thirty-Fifth Anniversary ed. (Ithaca NY, 1998), 242-283.

⁶¹⁵ Frederick Jackson Turner, "The Significance of the Frontier in American History," A paper read at the meeting of the American Historical Association in Chicago, July 12, 1893, reprinted In Turner, *The Frontier in American History* (New York, 1920), 1-38; C. H. Pearson, *National Life and Character: A Forecast* (London, 1893); James Bryce, *The Relations of the Advanced and the Backward Races of Mankind* (Oxford, 1903).

⁶¹⁶ J. Law Crawford, *Proposed Scheme of Imperial Commercial Union* (Ottawa, 1897), 20-22.

the South African War, a request denied, partly, based on British suzerainty as defined by the London Convention of 1884.⁶¹⁷

The “Great Rapprochement” between Britain and the United States followed from the choice to cooperate to address mutual geopolitical uncertainties, especially after Theodore Roosevelt became president in 1901.⁶¹⁸ American policy-makers, thinking about the future, chose to pursue global economic interests with an eye on Asia.⁶¹⁹ The shared border with Canada meant that military entanglements with Britain could spiral out of control, and the United States needed dominant British sea power in the Atlantic to stave off European threats while pursuing Asian commercial endeavors elsewhere.⁶²⁰ Roosevelt supported Britain during the South African War, fearing that damage to the British empire would imperil American interests and open the United States to threats from European powers, but he also encouraged amnesty for the Boers in the name of

⁶¹⁷ *Papers Relating to the Grievances of Her Majesty's Indian Subjects in the South African Republic*, C. 7911 (1895); John Westlake, *The Transvaal War, A Lecture Delivered in the University of Cambridge on 9th November, 1899* (London, 1899); John Bassett Moore (ed.), *A Digest of International Law*, Volume I (Washington DC, 1906), 212-214.

⁶¹⁸ Paul Kramer, “Empires, Exceptions, and Anglo-Saxons: Race and Rule between the British and the United States Empires, 1880-1910,” *The Journal of American History*, 88 (2002), 1315-1353; John M. Thompson, “A “Polygonal” Relationship: Theodore Roosevelt, the United States and Europe,” *The Journal of the Gilded Age and the Progressive Era*, 15 (2016), 102-106.

⁶¹⁹ Alfred Thayer Mahan, *The Problem of Asia* (Boston, 1900); see, also, LaFeber, *The New Empire*; Jonathan Zasloff, “Law and the Shaping of American Foreign Policy: From the Gilded Age to the New Era,” *New York University Law Review*, 78 (2003), 239-373.

⁶²⁰ Zasloff, “Law and the Shaping of American Foreign Policy;” Daniel Deudney, “Greater Britain or Greater Synthesis? Seeley, Mackinder, and Wells on Britain in the Global Industrial Era,” *Review of International Studies*, 27 (2001), 187-208.

Anglo-Saxon, English-speaking unity.⁶²¹ Elite cultural connections and migration-based family ties to Britain eased diplomatic engagement.⁶²²

South Asians' argumentation, up to the turn of the century, aimed to answer the Indian question. What would be the status or the place of India and South Asians within the British empire? The Indian question had become part of two, broader issues related to the ideological and legal challenges associated with the twin problems of "the yellow peril vs. the white peril" and "the crescent vs. the cross."⁶²³ The changed political situation in India and the Japanese victory in the Russo-Japanese war in 1905 altered the civilizational and the geopolitical environment in which all of these related issues existed. The following three sections analyze the resolution of these issues between roughly the turn of the century and 1919. First, the migration of South Asians to the United States converted the imperial problem of South Asians' racial exclusion from the Dominions into an Anglo-Saxon and international geopolitical matter. Second, Syed Ameer Ali renewed his advocacy for the religious and civilizational parity of Muslims in light of collapsing Anglo-Ottoman relations. Finally, Britain was forced to resolve Indian, imperial, and international constitutional and institutional reforms simultaneously during a global nationalizing moment between 1917 and 1919.

⁶²¹ William N. Tilchin, "The United States and the Boer War," In Keith Wilson (ed.), *The International Impact of the Boer War* (New York, 2014), 107-122.

⁶²² Leslie Butler, *Critical Americans: Victorian Intellectuals and Transatlantic Liberal Reform* (Chapel Hill NC, 2007); Daniel T. Rodgers, *Atlantic Crossings: Social Politics in a Progressive Era* (Cambridge MA, 1998); Magee and Thompson, *Empire and Globalisation*.

⁶²³ Aydin, *The Politics of Anti-Westernism in Asia*, 54-69.

South Asians in the United States

Britain relied on the United States between 1900 and the end of the First World War during European and imperial geopolitical disputes, most of which involved concerns about either Russian stability or German encroachments on the colonial possessions of other European states.⁶²⁴ American opinions about Britain's empire in India were divided.⁶²⁵ President Theodore Roosevelt remarked to Congress in 1904 that the civilizing work of the United States in the Philippines mirrored the British interventions in India and Egypt.⁶²⁶ William Jennings Bryan, citing Dadabhai Naoroji in 1906, criticized the oppressive and extractive nature of British rule.⁶²⁷ Only small numbers of South Asians resided in the United States at the time.⁶²⁸ Increasing numbers of South Asian students and businessmen began arriving in the United States around 1907, as did Punjabi Sikh farmers and lumber mill workers, many of whom had fled Canada based on rumors that the racial environment in the United States would be more hospitable. The number of South Asian immigrants in the United States reached almost 1100 in 1907 and exceeded 1700 in 1908.

⁶²⁴ Zasloff, "Law and the Shaping of American Foreign Policy."

⁶²⁵ Sydney Brooks, "American Opinion and British Rule in India," *The North American Review*, 190 (1909), 773-784.

⁶²⁶ Joan Jensen, *Passage from India: Asian Indian Immigrants in North America* (New Haven, 1988).

⁶²⁷ William Jennings Bryan, *British Rule in India*, reprinted from "India" of July 20, 1906 (London, 1906).

⁶²⁸ See, Sohi, *Echoes of Mutiny*; Harold Gould, *Sikhs, Swamis, Students, and Spies: The India Lobby in the United States, 1900-1947* (New Delhi, 2006); Jensen, *Passage from India*;

“Hindu” immigration became a federal issue, and it would become a geopolitical challenge for Anglo-American relations.⁶²⁹ American politicians and government officials shared for the most part the racial assumptions of the white settler colonists discussed in the previous chapter. Exclusionary politics and laws in the states and municipalities along the United States’ west coast required the federal government to balance diplomatic relations with Britain and federal-state relations within the country. L. Edwin Dudley, the U.S. Consul in Vancouver, British Columbia, Canada, wrote to the U.S. State Department office in Washington on November 6, 1906, to request instructions for dealing with South Asian immigrants. He identified the problem of racial tensions between immigrants and the white working-class on the west coast regarding competition for jobs but refused to act alone because, “most of these [South Asian immigrants were] British subjects, and many of them [had] served in the British army.”⁶³⁰ Dudley, in a longer letter, on November 22, explained his perception of the cultural conflicts and the fears created by South Asian immigration. The immigrants “[did] not assimilate in any way with the local population,” refusing to eat local food or to mix with the population on religious grounds.

Members of the Vancouver City Council had expressed concerns about poor hygiene and illness among South Asians, and one had suggested denying the immigrants food and shelter as a warning to others not to follow. For the United States, according to

⁶²⁹ The United States government applied the terms “Hindu” or “Hindoo,” regardless of religion, to South Asian immigrants, generally; Seema Sohi, *Echoes of Mutiny: Race, Surveillance, and Indian Anticolonialism in North America* (Oxford, 2014).

⁶³⁰ L. Edwin Dudley to the Assistant Secretary of State, November 5, 1906, United States, Washington, DC, and College Park, MD, U.S. National Archives and Records Administration (NARA), Records of the U.S. Immigration and Naturalization Service, Record Group (RG) 85, NARA, RG 85, file 51388/5, part 2.

Dudley, the problem was the “very long frontier” that “without much more extensive protection these people could easily cross.” The small numbers of immigrants at that time posed no real problem, but “there [were] at least three hundred and fifty millions of these people, laboring for very small wages, who [could] easily be induced to cross the Pacific Ocean.”⁶³¹

The British government, in autumn 1906, was focused on South Asians on the east coast of the United States. South Asian migrants on the west coast were almost exclusively laborers at the time, whereas those on the east coast included potential revolutionaries. Two South Asian merchants, Amar Singh and Gopal Singh, had attracted the attention of the British Consul-General in New York, Percy Sanderson. The men had arrived in the United States “to study the industrial and manufacturing situation with the view of freeing India from “English commercial oppression”.”⁶³² Both men were associated with the swadeshi movement in India and both were proponents of home rule in India of the same sort found in Canada and Australia. They were also connected to Eugene Geary, editor of the “Gaelic American,” the press organ of Clan na Gael, an Irish separatist group with a significant presence in the United States.

Sanderson, in another letter that was forwarded to the Governor-General of India, Lord Hardinge, explained that Clan na Gael hoped to instigate “discontent in India, South

⁶³¹ L. Edwin Dudley to the Assistant Secretary of State, November 22, 1906, NARA, RG 85, file 51388/5, part 2.

⁶³² Percy Sanderson, British Consul General, to Sir H. Mortimer Durand, British Ambassador, October 5, 1906, TNA, FO 371/160/34784.

Africa, Australia and Canada,” and had developed relationships to this end with the Russian Consul-General in New York, with supportive press outlets, including the *New York Herald* and “Everybody’s Magazine,” and with sympathetic politicians and businessmen.⁶³³ South Asians on the east coast were monitored also for their contacts with German Societies, in light of German allegations that the British government was attempting drive a wedge between Germany and the United States and British concern that Germany would attempt to foment anti-British unrest among South Asians.⁶³⁴ Again, Lord Hardinge was kept informed of surveillance and intelligence gathering in the United States.

By December 1906, the disturbances reported by Dudley to the State Department were appearing in a memorandum by C. W. Bennett, the British Consul General in San Francisco, who argued to the British Ambassador that, “[i]f there [was] any way in which this influx of Hindoos [could] be stopped it would... be well to stop it as there [was] very little chance of their bettering their own condition,” and pressure from Californians on the federal government might lead to an extension of the Chinese “Exclusion Acts so as to operate against British East Indians.”⁶³⁵ Dudley’s arguments mirrored those made in the debates about South Asians in southern Africa. The Transvaal government had

⁶³³ Percy Sanderson, British Consul General, to Sir H. Mortimer Durand, British Ambassador, October 5, 1906, TNA, FO 371/160/34844.

⁶³⁴ Percy Sanderson, British Consul General, to Sir H. Mortimer Durand, British Ambassador, November 16, 1906, TNA, FO 371/160/39820.

⁶³⁵ C. W. Bennett, British Consul General, to Sir H. Mortimer Durand, British Ambassador, December 3, 1906, TNA, FO 371/160/43045.

complained to the British government about the porous nature of the borders between Natal, a British colony, and the Transvaal. Poor hygiene, illness, and an incapacity for assimilation were already common accusations leveled against South Asian migrants.

The trans-imperial, transnational, and geopolitical aspects of the problem were new, and the connections among South Asians, Irish separatists, German Societies, and the German government sparked new fears. Bennett's attention to the potential for the extension of the Chinese Exclusion Acts also appeared in the attention paid by the British War Office to the potential for hostilities, especially in the Philippines, between the U.S. and Japanese militaries based on anti-Japanese sentiments on the west coast.⁶³⁶ The British government was content to manage the exclusion of South Asian migrants from the United States, but the U.S. government did not want to face the negative nationalist propaganda that would follow an extension of laws to exclude, specifically, British Indian subjects.

U.S.-British-Canadian coordination on immigration and cross-border population transfers was added to an agenda of ongoing negotiations about tariffs and wildlife protection.⁶³⁷ U.S. immigration agents were visiting Canadian immigration offices regularly in 1907.⁶³⁸ Asiatic immigration was treated as a single issue, even though the

⁶³⁶ "North America. General. Confidential 40635," December 3, 1906, TNA, FO 371/160/40635.

⁶³⁷ Simon J. Potter, "The Imperial Significance of the Canadian-American Reciprocity Proposals of 1911," *The Historical Journal*, 47 (2004), 81-100; G. T. Stewart, "'A Special Contiguous Country Economic Regime': An Overview of America's Canadian Policy," *Diplomatic History*, 6 (1982), 339-357; Kurkpatrick Dorsey, *The Dawn of Conservation Diplomacy: U.S.-Canadian Wildlife Protection Treaties in the Progressive Era* (Seattle, 1998).

⁶³⁸ John H. Clark, Office of the Immigration Commissioner, Montreal, to F. P. Sargent, Commissioner-General of Immigration, Washington, DC, December 18, 1907, NARA, RG 85, file 51931/14.

bureaucrats involved in administration and negotiation were aware of the differing international legal statuses of India, China, and Japan, hence the distinction between treaty arrangements with Japan and the informal arrangements among the governments of the United States, Britain, Canada, and India.⁶³⁹ The Colonial Office identified the issue of Asiatic immigration, generally, as “the gravest and most urgent problem with which Imperial statesmanship [was then] confronted” and feared that any British failure to address the issue in a comprehensive fashion would lead to Britain’s displacement by the United States as the country setting the global agenda on “coloured immigration.”⁶⁴⁰

By the beginning of 1908, South Asians’ revolutionary activities in the United States had become a significant concern for the British Embassy. C. W. Bennett, now the Consul General in New York, wrote to the new ambassador, James Bryce, and the Foreign Secretary, Edward Grey, on January 17, 1908, to report on the situation in New York. Bennett identified an American, Myron Phelps, as a financial benefactor for revolutionary activities, noting that Phelps, in the past, had “stirr[ed] up trouble for England over the Transvaal question.”⁶⁴¹

Bennett derided Phelps’ knowledge of British rule in India but indicated that American public opinion could be swayed easily against Britain because it was “so ill informed that any statement, however ridiculous, [was] believed.” By February 10, *The*

⁶³⁹ Chang, *Pacific Connections*.

⁶⁴⁰ “Suggestions as to Coloured Immigration into the Self-Governing Dominions,” July 1908, TNA, CO 886 /1/2, 4.

⁶⁴¹ C. W. Bennett, British Consul General, to James Bryce, British Ambassador, and Edward Grey, Foreign Secretary, January 17, 1908, TNA, FO 115/1475/43045.

New York Press was reporting that the U.S. Secret Service and local police had been asked by the government to cooperate with the British government's actions to quash revolutionary activities in the United States. Even so, Ambassador James Bryce wrote to Grey in August of 1908 that revolutionary propaganda seemed to have had little effect on American public opinion and that Americans knew, from experience in the Philippines, "how great [were] the difficulties of satisfying any subject race."⁶⁴²

Cooperation extended to the suppression of published, "seditious" materials, including "The Free Hindustan," an anti-British magazine that had been printed in Vancouver "by a Socialist paper called 'The Western Clarion'."⁶⁴³ It was distributed in cities on the west coast and in New York, but the Post Office Inspector in Vancouver had been able to confiscate copies that were mailed. The British Embassy and Consulates worked together to counter the pro-revolutionary materials that were distributed by placing articles in newspapers and magazines sympathetic to British rule.⁶⁴⁴

U.S. immigration officials received information about a threat posed by Teja Singh, an executive with the Guru Nanak Mining and Trust Company of Vancouver. An informant reported that the mining company had been formed for the sole purpose of supporting revolutionary conspiracies against the British from North America. Singh, supposedly, was sending two plotters, Wariam and Hari Singh, to the United States

⁶⁴² James Bryce to Edward Grey, August 3, 1908, TNA, FO 115/1475/25460.

⁶⁴³ Bernard Pelly, British Vice Consul, Seattle, to James Laidlaw, British Consul, Portland OR, September 1, 1908, TNA, FO 115/1475.

⁶⁴⁴ Walter Hearn, Consul General, San Francisco, to James Bryce, December 12, 1908, TNA, FO 115/1475.

disguised as representatives of the company for the purpose of securing bombs and other explosives for shipment back to India. The Office of the Secretary of the U.S. Treasury recommended involving the State Department, which could address the situation by invoking the neutrality laws related to the international laws of war.⁶⁴⁵

Local governments and non-governmental organizations continued to stoke fears. The Mayor of San Francisco wrote to the Department of Commerce and Labor denying “narrow prejudice against Hindus as a people” while asserting that the “free and independent people [of San Francisco would] not tolerate the introduction of a servile class.” Arguing from a “progressive” perspective, the Mayor’s Office wrote that allowing the entry of South Asians would be akin to the introduction of “the Black from Africa man as a slave in the early history of the nation.” The real fear, however, was of the “yellow peril,” that allowing one South Asian to enter the country legally would open the door to “a population of about 370,000,000... enervated members of a degenerated race.”⁶⁴⁶

Cooperative measures to confront Asiatic immigration continued, and in 1911, the U.S. Congress published the work of its Immigration Commission, formed in 1907 to develop conclusions about foreign immigration into the United States and to make recommendations about future immigration policy. The Commission recommended the

⁶⁴⁵ United States Treasury Department to the Commissioner-General of Immigration, United States Department of Commerce and Labor, January 19, 1909, NARA, RG 85, file 51388/5.

⁶⁴⁶ Mayor’s Office, San Francisco to United States Department of Commerce and Labor, October 21, 1910, NARA, RG 85, file 52903/110-A.

continued exclusion of Chinese laborers, reliance on existing treaty arrangements to limit Japanese and Korean immigration, and that, “[a]n understanding should be reached with the British Government whereby East Indian laborers would be effectively prevented from coming to the United States.”⁶⁴⁷ Congress used the report as the foundation for comprehensive immigration legislation, which gradually built towards the complete exclusion of Asian immigrants. Frank Morrison, the Secretary of the American Labor Federation (AFL), in testimony before the U.S. House of Representatives on December 12, 1913, read into the record an AFL resolution that called for, among other demands, the extension of the Chinese Exclusion Act provisions to all Asians.⁶⁴⁸

By 1914, the House of Representatives was debating “Hindu Immigration,” specifically. Dr. Sudhindra Bose, a lecturer at the State University of Iowa, recounted that he arrived in the United States as an unskilled laborer, who worked as a store clerk and a farm hand before entering college and earning Bachelor’s, Master’s, and Ph.D. degrees. Bose explained that South Asians came to the United States “because of the opportunities... for social uplift, intellectual betterment, and economical advancement.”⁶⁴⁹ T’ishi Bhutia, an importer of jute and a resident of Brooklyn, NY,

⁶⁴⁷ United States Senate, 61st Congress, Third Session, *Reports of the Immigration Commission, with Conclusions and Recommendations and the Views of the Minority*, In Two Volumes: Vol. I (Washington DC, 1911), 47.

⁶⁴⁸ “Statement of Mr. Frank Morrison, Secretary of the American Federation of Labor,” December 12, 1913, United States House of Representatives, 63rd Congress, Second Session, *Restriction of Immigration: Hearings before the Committee on Immigration and Naturalization* (Washington DC, 1914), 4.

⁶⁴⁹ “Statement of Dr. Sudhindra Bose, Lecturer on Oriental Politics and Civilization, State University of Iowa, Formerly of Calcutta,” February 13, 1914, United States House of Representatives, 63rd Congress, Second Session, *Hindu Immigration: Hearings before the Committee on Immigration, Relative to Restriction of Immigration of Hindu Laborers*, Part I (Washington DC, 1914), 4.

since graduating from college in the United States, spoke, on April 30, 1914, about the value for India when, “our young men come [to the United States] and assimilate the conditions of the Americans, assume the American civilization, and go back to India” noting that this was, “a greater salvation for us than the sending missionaries.”⁶⁵⁰

British fears about global seditious and revolutionary activities aimed at Indian independence had increased in 1910 and continued growing steadily through the end of the decade.⁶⁵¹ The British government tracked South Asian migrants assiduously, watching as they established relationships with individuals and organizations dedicated to anti-imperialism and anti-militarism.⁶⁵² Revolutionaries in the United States were one node in a global network of anti-British agitation and intrigue, which included southeast Asia, China, and Japan.⁶⁵³ In late 1916, a dispute arose between the British and U.S. governments related to the global reach of these movements.

⁶⁵⁰ “Statement of Mr. ’T’ishi Bhutia Kyawgh Hla’, of Darjeeling, India, and Brooklyn, N.Y.,” April 30, 1914, United States House of Representatives, *Hindu Immigration*, Part V, 150.

⁶⁵¹ Sohi, *Echoes of Mutiny*; Ramnath, *Haj to Utopia*; Popplewell, *Intelligence and Imperial Defence*; Don Dignan, “The Hindu Conspiracy in Anglo-American Relations during World War I,” *Pacific Historical Review*, 40 (1971), 57-76.

⁶⁵² For “Hindu Agitations in the United States,” see, 1912, TNA, FO 115/1676 and FO 155/1677; 1913, TNA, FO 115/1731; 1914, TNA, FO 115/1779 and FO 115/1780; see, also, “Indian Sedition,” 1916, TNA, CO 537/782; “Notes as to Indian Sedition,” 1917, TNA, CO 537/676; for this milieu, see, for example, John Fabian Witt, “Crystal Eastman and the Internationalist Beginnings of American Civil Liberties,” *Duke Law Journal*, 54 (2004), 705-763; Gerald Horne, *The End of Empires: African Americans and India* (Philadelphia, 2008); Paul L. Murphy, *World War I and the Origin of Civil Liberties in the United States* (New York, 1979); Peggy Lamson, *Roger Baldwin: Founder of the American Civil Liberties Union* (Boston, 1976); Alan Raucher, “American Anti-Imperialists and the Pro-India Movement, 1900-1932,” *Pacific Historical Review*, 43 (1974), 83-110.

⁶⁵³ “Indian Sedition and China,” 1910-1915, TNA, FO 228/2299; “Indian Sedition,” 1916-1917, TNA, FO 228/2703; “Indian Sedition,” 1918-1927, TNA, FO 228/3092.

The British never believed that the United States was doing enough to stanch the revolutionary activities that were occurring on U.S. soil, and the challenges of the war only exacerbated that feeling. Colville Barclay, on behalf of the British Embassy in Washington, DC, prepared a memo submitted to the Robert Lansing, the U.S. Secretary of State, on September 25, 1916, and invoked the international laws of war, specifically the duties of neutral states to refrain from activities that aided any belligerent parties. Barclay called attention to “the continued toleration of Indian and German intrigues in the United States which constitut[ed] a grave threat to the British Empire,” activities that were being planned in China.⁶⁵⁴ He characterized U.S. inaction as negligent and inconsistent with the duty of a neutral power to stop such activities. Lansing, with the support of President Woodrow Wilson, responded on February 23, 1917, to deny the allegations, which he attributed to British frustration with the inability of either the imperial or the Indian governments to quash the revolutionary movements.⁶⁵⁵

Two decisions brought the matter to a close. The U.S. entered the war fewer than two months later. More importantly, Congress had passed the Immigration Act of 1917 on February 5. Legal strategies and constructions had traveled throughout the Anglo world, with the Dominions and the United States borrowing laws from one another; the U.S. Act

⁶⁵⁴ Colville Barclay, “Memorandum,” The British Embassy to the Department of State, September 25, 1916, In United States Department of State, *Papers Relating to the Foreign Relations of the United States. The Lansing Papers (1914-1920)*, volume II, 223-224, at 224.

⁶⁵⁵ “Memorandum,” The Department of State to the British Embassy, February 23, 1917, In *Foreign Relations of the United States. The Lansing Papers*, volume II, 237-245.

of 1917 resembled Britain's 1905 Aliens Act.⁶⁵⁶ The Act of 1917 required a literacy test, aimed at poor laborers, expanded the definition of radicalism, and excluded Asiatic immigration by creating a novel geographical area, the "Asiatic Barred Zone."⁶⁵⁷ Interestingly, both the Aliens Act and the Act of 1917 carved out exceptions for asylum based on religious persecution, which, partly, were responses to the alleged mistreatment of non-Muslims within the Ottoman empire.

South Asians and the Eastern Question up to World War I

Syed Ameer Ali, in 1907, castigated the "the public press of England and France" for perpetuating fears of "the bogey of Pan-Islamism, conjured up by fevered brains, which [were] responsible for much of the wild talk" in those two countries regarding the Ottoman empire and Muslims around the world.⁶⁵⁸ Pan-Islam, though, was only one of a growing number of diverse, ideological-affiliative visions of global order that cut across the established borders of states and empires to impinge on imperial and international politics and governance.⁶⁵⁹ Moreover, Ameer Ali's broad-stroke condemnation of the press and public opinion was not entirely accurate. One French journal, the *Revue du*

⁶⁵⁶ See, Lake and Reynolds, *Drawing the Global Colour Line*; Alison Ashford and Jane McAdam, "The Right to Asylum: Britain's 1905 Aliens Act and the Evolution of Refugee Law," *Law and History Review*, 32 (2014), 309-350, 337.

⁶⁵⁷ See, Erika Lee, "The 'Yellow Peril' and Asian Exclusion in the Americas," *Pacific Historical Review*, 76 (2007), 537-562.

⁶⁵⁸ Syed Ameer Ali, "Dawn of a New Policy in India," *The Nineteenth Century and After*, 60 (1906), 823-834, at 826.

⁶⁵⁹ Archibald R. Colquhoun, "Pan-Mania," *The North American Review*, 183 (1906), 852-861; see, also, Archibald R. Colquhoun, "Pan-Islam," *The North American Review*, 182 (1906), 906-918; Archibald R. Colquhoun, "The Far Eastern Crisis," *The North American Review*, 167 (1898), 513-526.

Monde Musalman, described Ameer Ali's and Major Syed Hassan's vision of Islam, expressed during the post-lecture discussion at Valentine Chirol's Central Asian Society lecture on pan-Islam, as "humane and progressive," with a respect for "liberty [and] equality, and a hatred of religious zealotry and bigotry."⁶⁶⁰

Ameer Ali's early twentieth-century environment differed in two crucial ways from the atmosphere in which he wrote *A Critical Examination of the Life and Teachings of Mohammed* (1873). Missionary discourse and disputation had become significantly, if not entirely, less hostile throughout the nineteenth century. Scholars had rebutted William Hunter's 1871 assertion that Muslims were bound by the tenets of Islam to rebel against British rule, and men with experience in India, like Theodore Beck and Theodore Morrison, former principals of Sayyid Ahmad Khan's college at Aligarh, and the orientalist scholar, Thomas W. Arnold, had magnified Ameer Ali's sympathetic portrait of loyal Indian Muslims.⁶⁶¹ One scholar, in 1905, described Ameer Ali's book, *The Spirit of Islam*, as "probably the best achievement in the way of an apology for Mohammed that [was] ever likely to be composed in a European language."⁶⁶² Also, official patronage had elevated the status of Muslims within the empire. Ameer Ali, by 1907, had served on the Bengal Legislative Council and as a judge on the Bengal High Court.

⁶⁶⁰ See, Valentine Chirol, *Pan-Islamism* (London, 1906), a paper presented at the London Central Asian Society on November 14, 1906, and Ameer Ali's comments during discussion of the paper, 20-23; Susan Bayly, "Racial Readings of Empire: Britain, France, and Colonial Modernity in the Mediterranean and Asia," In Leila Fawaz, C. A. Bayly, and Robert Ilbert (eds.), *Modernity and Culture from the Mediterranean to the Indian Ocean, 1890-1920* (New York, 2002), 285-313, at 304.

⁶⁶¹ C. A. Bayly, "Representing Copts and Mohammadans: Empire, Nation, and Community in Egypt and India, 1880-1914," In Fawaz, Bayly, and Ilbert (eds.), *Modernity and Culture*, 158-203, 186-187.

⁶⁶² David S. Margoliouth, *Mohammed and the Rise of Islam*, third ed. (London, 1905), vii.

The Islamophobia that Ameer Ali decried and the debate in which he was participating, in 1907, related to the position of Muslims in India but connected much more closely than in the nineteenth century to the Ottoman problem and the global dispute between “crescent and cross.” The Ottoman leadership, during the 50 years preceding the First World War, found itself increasingly caught between international threats and domestic upheaval.⁶⁶³ Ottoman imperial reform had failed to forestall Great-Power demands that the Ottomans could never quite satisfy, and for decades, the government faced growing nationalism among subject populations, which had been encouraged by foreign statesmen and governments.⁶⁶⁴ The *entente cordiale* established between Britain and France in 1904 stabilized colonial relations between those two countries, secured France against German expansionism in Europe, and allowed Britain to focus on Russia in eastern Asia and, after 1907, in the Balkans.⁶⁶⁵ The perceived importance of Anglo-Ottoman relations as a British bulwark against Russian expansionism, consequently, receded. U.S. power ensured the predominance of Britain in Egypt and of France in Morocco during the First and Second Moroccan Crises

⁶⁶³ Mustafa Aksakal, *The Ottoman Road to War in 1914: The Ottoman Empire and the First World War* (Cambridge, 2008).

⁶⁶⁴ Ameer Ali, “Turkey and the Powers,” *The Times of London*, Letter to the Editor (November 28, 1905), 12.

⁶⁶⁵ Thomas Barclay, *Thirty Years: Anglo-French Reminiscences (1876-1906)* (London, 1914); Blunt, *My Diaries, Part II, 1900-1914*, 88, 96, 98-99, 117, 167, 173, 192, 196; Neilson, *Britain and the Last Tsar*.

(1905-1906, 1911).⁶⁶⁶ These events and, later, the Italo-Turkish War (1911) and the Balkan Wars (1912-1913) pushed the Ottoman empire into the arms of Germany.⁶⁶⁷

Ameer Ali returned to London in 1904, ensconced himself at the Reform Club, founded in the wake of the Reform Act of 1832 to provide a congenial intellectual gathering-place for liberals, and continued his public intellectual and organizational work on behalf of Indian Muslims. He and his wife, the sister of British actress Gertrude Kingston, spent summers in the Swiss mountains, socializing with statesmen, diplomats, international law professors, and businesspeople from Turkey, Egypt, Europe, and America.⁶⁶⁸ He founded the London Muslim League in 1908, was appointed a judge on the Judicial Committee of the Privy Council, the highest court of appeal in colonial law cases, in 1909, founded the first mosque in London in 1910 and the British Red Crescent Society in 1912.⁶⁶⁹

Ameer Ali focused equally on the external and internal affairs of India. He realized that the Eastern Question had developed and continued to play out in imperial

⁶⁶⁶ Neilson, *Britain and the Last Tsar*; Zasloff, "Law and the Shaping of American Foreign Policy."

⁶⁶⁷ Aksakal, *The Ottoman Road to War*.

⁶⁶⁸ Ameer Ali, "Memoirs of the Late Rt. Hon'ble Syed Ameer Ali, part I" *Islamic Culture*, 5 (1931), 509-542; parts II-V were published in *Islamic Culture*, 6 (1932), 1-18, 161-182, 333-362, 503-525, respectively; collated and reprinted in Syed Razi Wasti (ed.), *Memoir and Other Writings of Syed Ameer Ali* (Delhi, 1968), 5-129.

⁶⁶⁹ "Appointment of Ameer Ali to the Judicial Committee of the Privy Council," 1909, TNA, Privy Council (PC) 8/718; *The Work of the British Red Crescent Society in Three Continents, 1912-14* (London, 1915); Ernest H. Griffin, *Adventures in Tripoli: A Doctor in the Desert* (London, 1924); M. Yusuf Abbasi, *London Muslim League (1908-1928): An Historical Study* (Islamabad, 1988); Humayun Ansari (ed.), *The Making of the East London Mosque, 1910-1951: Minutes of the London Mosque Fund and East London Mosque Trust Ltd.* (Cambridge, 2011).

possessions and buffer states, encompassing all of Asia and much of colonial Africa.⁶⁷⁰ His recognition of this fact led him to believe in the continued need for Anglo-Ottoman amity.⁶⁷¹ He was also well aware of the ongoing political discord in India, which led him to conclude that the demand for self-government should be placed in abeyance until the population possessed deeper knowledge of political issues and a greater sense of solidarity.⁶⁷² The “civilised nationalities of India [were] not behind any Western race in adaptability for progress,” but security and the future progress of India was, for the time being, inextricably connected to British rule.⁶⁷³ This was true, too, regarding the Indian Muslim polity, which would be dispossessed of what power it possessed by Hindu-led self-government.⁶⁷⁴

In 1909, Ameer Ali lent his name to one book and one letter, both of which were aimed at countering rising fears of Turkish instability and pan-Islamic aggression. Arthur Glyn Leonard, a British soldier who had served in South Africa, Afghanistan, India, and the Sudan, published *Islam: Her Moral and Spiritual Value* as a response to “the fashion

⁶⁷⁰ Evgeny Sergeev, *The Great Game, 1856-1907: Russo-British Relations in Central and East Asia* (Baltimore MD, 2013); Jennifer Siegel, *Endgame: Britain, Russia and the Final Struggle for Central Asia* (London, 2002); Keith Neilson, *Britain and the Last Tsar: British Policy and Russia, 1894-1917* (Oxford, 1995); John Albert White, *Transition to Global Rivalry: Alliance Diplomacy and the Quadruple Entente, 1895-1907* (Cambridge, 1995).

⁶⁷¹ Ameer Ali, “England and Russia in Afghanistan,” *Nineteenth Century and After*, 57 (1905), 777-786; see, also, Aga Khan, “The Defence of India,” *Nineteenth Century and After*, 58 (1905), 367-375.

⁶⁷² Ameer Ali, “An Indian Retrospect and Some Comments,” *Nineteenth Century and After*, 58 (1905), 607-620; Ameer Ali, “India and the New Parliament,” *Nineteenth Century and After*, 60 (1906), 254-267; Ameer Ali, “Dawn of a New Policy,” *Nineteenth Century and After*, 60 (1906), 823-834.

⁶⁷³ Ameer Ali, “An Indian Retrospect,” 616.

⁶⁷⁴ “Indian Moslems and the Caliphate,” September 21, 1908, TNA, FO 371/559/33237.

in Europe to rail at and suspect the good faith and motives of the Moslem world.”⁶⁷⁵

Ameer Ali contributed the foreword, praising Leonard for acknowledging both the debt of Europe to Islam and the character of Muhammad as a “true man—great not only as a teacher, but as a patriot and statesman; a material as well as a spiritual builder, who constructed a nation and an enduring faith.”⁶⁷⁶ Ameer Ali also co-authored an open letter with Edward Atkin and Frederic Harrison after Harrison assumed the presidency of the Eastern Questions Association.⁶⁷⁷ The letter urged patience and called for support for Turkish reformers. It recalled the diplomatic morass that British policy towards Turkish affairs had created over 50 years. The writers counseled that undue haste in becoming involved would lead to war.

Ameer Ali wrote directly about Anglo-Ottoman relations after 1909. His letters to *The Times* explicitly invoked the institutional and state-building activities of the Prophet, as well as the Prophet’s example of proper conduct in diplomacy and war. His goal was to spur British mediation of the slow dismantling of the Ottoman empire that began with the Turco-Italian War and ended after the First World War. In a series of letters to *The Times* from September until December of 1911, Ameer Ali repeatedly encouraged British involvement in the Turco-Italian War. He calls on the British government to re-establish

⁶⁷⁵ Arthur Glyn Leonard, *Islam: Her Moral and Spiritual Value, A Rational and Psychological Study*, with a Foreword by Syed Ameer Ali (London, 1909), 13.

⁶⁷⁶ Ameer Ali, “Foreword,” In Leonard, *Islam*, 7.

⁶⁷⁷ Frederic Harrison, *Autobiographic Memoirs, Volume II (1870-1910)*, 131-133. The contents of the letter are described in Harrison’s presidential address to the Eastern Questions Association annual meeting in February 1910, which is reproduced in the *Memoirs*.

amity between Christians and Muslims, reminding the government of the hundreds of million Muslim subjects who are watching Italy's "breach of all canons of international morality."⁶⁷⁸ Britain, "for the sake of her trusteeship" must "defend the law of nations," which Italy violated by initiating a war of conquest.⁶⁷⁹ Invoking the standard of civilization, and the Hague conferences on the law of war held in 1899 and 1907, Ameer Ali condemned both the "indiscriminate slaughter" of women, captives, and civilians, and the lassitude of the British people, writing, "were even a fraction of these acts committed by the Turks, there would have been a howl of indignation throughout the length and breadth of Great Britain."⁶⁸⁰

During the Turco-Italian War, when Russia invaded northern Iran, the British prepared to invade the southern part of Iran. The Anglo-Russian agreement of 1907 had divided Iran into Russian and British informal spheres of influence, but the Turco-Italian War offered a pretext for possible annexation. Ameer Ali argued that even if the British government could not decide foreign policy based on the sentiments of subjects, the Muslims were "entitled to expect that the Empire to which they belong should extend to people and States of their faith the same measure of justice and protection that she is

⁶⁷⁸ Ameer Ali, "Italy and Tripoli," *The Times of London*, September 28, 1911. Reprinted in K. K. Aziz (ed.), *Ameer Ali: His Life and Work* (Lahore, 1968), 353.

⁶⁷⁹ Ameer Ali, "Great Britain and the War," *The Times of London*, October 11, 1911. Reprinted in Aziz (ed.), *Ameer Ali*, 355.

⁶⁸⁰ Ameer Ali, "Italy and Turkey," *The Times of London*, November 1, 1911. Reprinted in Aziz (ed.), *Ameer Ali*, 356; see, also, Ameer Ali, "Additional Chapter on Moslem Feeling," In Thomas Barclay, *The Turco-Italian War and Its Problems, with Appendices Containing the Chief State Papers Bearing on the Subject, with an Additional Chapter on Moslem Feeling by The Rt. Hon. Ameer Ali, P. C.* (London, 1912), 101-108; Geoffrey Best, "Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after," *International Affairs*, 75 (1999), 619-634.

ready to accord to weaker Christian States.”⁶⁸¹ Here, Ameer Ali condemned the idea of “might making right” by reminding the British government of its past efforts to protect weak states against stronger aggressors. His argument served two purposes. It claimed both that Muslim states were the equal of Christian states under international law and that Muslim subjects of the British empire were the equals of other subjects.

He continued, in a similar vein, when the Turco-Italian War slowly transformed into the Balkan Wars (1912-1912), criticizing those who advocated British support for the break-away Balkan provinces of the Ottoman empire. He likened their support to a “20th century crusade,” and wondered at the willingness to enable Russia, “the land of pogroms and persecutions,” to dismember the Ottoman empire.⁶⁸² The British Army General Staff concluded, relatedly, that one reason for Turkish defeat in the wars was because “she relied on the professed policy and promises of the Great Powers to maintain her integrity and the *status quo* in the Balkans.”⁶⁸³ He led the London Muslim League to make similar entreaties directly to the Foreign Office to condemn both violations of international law leading to the war and British failures to consider Muslim public opinion in India.⁶⁸⁴

The Turco-Italian and the Balkan Wars transitioned into the First World War, and when this occurred, Ameer Ali ceased criticizing the British government. He did produce

⁶⁸¹ Ameer Ali, “British Policy in Persia,” *The Times of London*, September 26, 1912. Reprinted in Aziz (ed.), *Ameer Ali*, 366.

⁶⁸² Ameer Ali, “Moslems and the War,” *The Times of London*, Letter to the Editor, October 24, 1912, reprinted in Aziz (ed.), *Ameer Ali*, 367-369, at 368.

⁶⁸³ “General Staff Memo,” November 12, 1912,” United Kingdom Parliamentary Archives (PA), Bonar Law Papers (BL) 27/4.

⁶⁸⁴ “Balkans, Resolutions, London Muslim League,” October 7, 1912, TNA, FO 371/1500/42173.

an historical analysis of the institution of the Caliphate with the goal of overcoming theological objections to the Ottoman sultan's claim to represent all Muslims. The more important objective, in line with his earlier work, seems to have been to emphasize the worldwide unity of the Muslim community to claim a place for Muslim public opinion in political debates about the post-war settlement.⁶⁸⁵ The preeminent British historian of Islam at the time, Thomas Arnold, also recognized the role of politics in the evolution of ideas about the Caliphate, as well as the tension between theology and politics and the ways that theological examinations of history could be politicized.⁶⁸⁶ British foreign policy discussions of the Caliphate displayed all of these tendencies.⁶⁸⁷ Ameer Ali's public intellectual and political advocacy work in London and his intermingling with global intellectuals and statesmen brought him to the attention of Ottoman officials and carved a niche among British liberals. It is, therefore, unsurprising that his belief in the importance of Indian Muslim public opinion became a feature of post-war, British debates about the peace settlement.

South Asians, Constitutional Reform, and International Recognition

Indian, imperial, and international interests intersected in 1917, in constitutional, legal, and institutional debates about the status of India and the future of imperial and

⁶⁸⁵ Ameer Ali, "The Caliphate: A Historical and Juridical Sketch," *The Contemporary Review*, 107 (1915), 681-694.

⁶⁸⁶ Thomas W. Arnold, *The Caliphate* (Oxford, 1924).

⁶⁸⁷ See, Sean Oliver-Dee, *The Caliphate Question: The British Government and Islamic Governance* (Lanham MD, 2009).

global order. The Imperial War Conference resolution recognizing India's right to participate equally in the Imperial conferences and to consultation in foreign affairs set the tone in April. This agreement laid the groundwork for the imperial nationalizing moment in which reciprocity among India and Dominions could occur, an agreement that re-imagined each of these states as existing in an intra-imperial but international relationship to one another. The promise of eventual self-government for India and the end of the system of indenture followed these decisions in August and in the autumn, respectively. All of these alterations built on a legacy of South Asian liberal international thought and political advocacy, and all of these concessions had been impelled by Indian political unrest and British fear, especially fear of the global dimensions of the revolutionary movement.

The task of constitutional reform fell mainly on Edwin Samuel Montagu (1879-1924), the Secretary of State for India between July 1917 and March 1922, and on Frederic Thesiger (1868-1933), Lord Chelmsford, the Governor-General of India from April 1916 until April 1921. Montagu, in particular, adopted the demands and the language of South Asian liberals. South Asians, except for the revolutionaries and their sympathizers, had rallied behind the imperial government at the beginning of the First World War, but they made clear the expectation that the government would meet their demands at the war's end. Chelmsford reiterated, in numerous communications with the India Office in London, his belief that conciliating public opinion required a clear statement of the goals of British rule in India, and he initiated the collaborative process of

formulating the government's "Goal of British Rule in India" in July 1916.⁶⁸⁸ Montagu had served as Under-Secretary of State for India between 1910 and 1914, so he possessed familiarity with the issues and the people involved, when he accepted Prime Minister David Lloyd George's offer to serve as the Secretary of State on July 17, 1917.⁶⁸⁹

He had already suggested to Lloyd George that better representation of South Asians throughout the government, to include greater executive opportunities and a concomitant reorganization of the India Office were a matter of "the continued existence of the British Empire."⁶⁹⁰ He had proposed a federation of self-governing provinces and princely states, largely in line with Chelmsford's recommendation, acknowledging that immediate home rule was impossible.⁶⁹¹ Lloyd George, focused on the war effort, proved difficult to engage, and Montagu pressed on him that the failure to move ahead with announcement of eventual, complete self-government would lead to disaffection in India and a governmental response of "repression, coercion, imprisonment — compared with which... the recent history of Ireland [would seem] placid and peaceful."⁶⁹²

Montagu's dystopian vision failed to materialize after the British government announced the goal of autonomy for Indians in provincial, domestic affairs and eventual

⁶⁸⁸ Lord Chelmsford to Local Governments and Administrations, Circular Letter, July 20, 1916, In Government of India, *Goal of British Rule in India* (Delhi, 1917), 1-45.

⁶⁸⁹ E. S. Montagu to David Lloyd George, July 17, 1917, United Kingdom Parliamentary Archives (PA), Lloyd George Papers (LG), F/39/3/23.

⁶⁹⁰ E. S. Montagu to David Lloyd George, July 3, 1917, United Kingdom Parliamentary Archives (PA), Lloyd George Papers (LG), F/39/3/20

⁶⁹¹ E. S. Montagu to David Lloyd George, July 5, 1917, PA, LG F/39/3/21; E. S. Montagu to David Lloyd George (July 17, 1917), PA, LG F/39/3/23.

⁶⁹² E. S. Montagu to David Lloyd George, August 7, 1917, PA, LG F/39/3/26.

Indian self-government on August 20, 1917, a goal later formalized in the Government of India Act of 1919.⁶⁹³ Concessions to Indian opinion continued, for example, when the government released Annie Besant, a home rule advocate and political prisoner, as a show of good faith in October.⁶⁹⁴ Montagu paired movement in the direction of self-government with a constant push for imperial equality between India and the Dominions, for South Asians to represent India at the eventual peace talks, and for the opinions of elite South Asian's to inform the prime minister's post-war planning.⁶⁹⁵

Satyendra Prasanno Sinha (1863-1928), the first South Asian to serve on a Viceroy's Executive Council (Law Member, 1909-1914), had taken a position as Montagu's assistant at the India Office in 1917, and Montagu regularly solicited the advice of Sultan Muhammad Shah (1877-1957), the Aga Khan III, the worldwide leader of the Ismaili Muslim community and a member of the Muslim League.⁶⁹⁶ Sinha had argued both against the idea that India might receive a League of Nations Mandate to control some territories conquered from Turkey by the Indian Army and in favor of

⁶⁹³ "East India (Constitutional Reforms). Report on Indian Constitutional Reforms," Command Paper (Cd.) 9109 (1918); Richard Danzig, "The Announcement of August 20, 1917," *The Journal of Asian Studies*, 28 (1968), 19-37.

⁶⁹⁴ E. S. Montagu to David Lloyd George, October 9, 1917, PA, LG F/39/3/31.

⁶⁹⁵ E. S. Montagu to David Lloyd George, June 19, 1918, PA, LG/F/40/2/5; E. S. Montagu to David Lloyd George, November 13, 1918, PA, LG/F/40/2/19; E. S. Montagu to David Lloyd George, January 17, 1919, PA, LG/F/40/2/30.

⁶⁹⁶ E. S. Montagu to J. T. Davies, January 23, 1919, PA, LG F/40/2/32; H. W. V. Temperley (ed.), *A History of the Peace Conference of Paris, volume II, The Settlement with Germany* (London, 1920), 241.

setting aside former German territories in East Africa for Indian colonization.⁶⁹⁷ The Aga Khan conducted an exploratory trip through Ottoman territory to discern local opinions about a possible American Mandate in Turkey, which led Montagu to endorse his recommendation to set aside this potential policy, if the Turks could not retain control of Constantinople.⁶⁹⁸

Montagu became increasingly strident about the imperial and international ramifications of India's separate legal personality, demanding that he be allowed to represent the views of both the Indian government and the educated South Asian liberals who articulated Indian public opinion, especially regarding the peace settlement with Turkey, even threatening resignation from the government, if he were barred from this duty.⁶⁹⁹ He argued, explicitly, that the success of Indian constitutional reforms depended on British attention to Indian opinion, which was increasingly unified, regarding the peace settlement with Turkey.⁷⁰⁰ He advocated forcefully for policies that would demonstrate to Indian Muslims that they were full members of the imperial subject-

⁶⁹⁷ S. P. Sinha and Theodore Morison, "A Colony for India," July 16, 1918, CAB 24/58; S. P. Sinha, "Memorandum on German East Africa," 1918, CAB 24/72; see, also, Theodore Morison, "India and German East Africa. An Imperial Task," *The Times of London*, August 24, 1918, 4.

⁶⁹⁸ "Memorandum from His Highness the Aga Khan Regarding an American Mandatory Power in Turkey under the League of Nations," 1919, TNA, Cabinet Papers (CAB) 29/89; "Minutes of the Seventh Meeting of the British Empire Delegation," February 7, 1919, TNA, FO 374/22, 30; H. W. V. Temperley (ed.), *A History of the Peace Conference of Paris, volume II, The Settlement with Germany* (London, 1920), 7.

⁶⁹⁹ E. S. Montagu to David Lloyd George, February 28, 1919, PA, LG/F/40/2/40; E. S. Montagu to David Lloyd George, April 16, 1919, PA, LG/F/40/2/50.

⁷⁰⁰ E. S. Montagu to David Lloyd George, June 22, 1919, PA, LG/F/40/2/55.

citizenry.⁷⁰¹ He was a willing audience for Ameer Ali's arguments that Persia possessed a right to be admitted as a founding member of the League after Ameer Ali interweaved historical, civilizational, and international legal arguments on behalf of Persia in 1919, invoking not only a British duty to protect the weak, but also Persia's constitutional advances, which had resulted in parliamentary democracy, voting rights, and minority protections.⁷⁰² Persia ultimately became a founding member of the League. Ameer Ali also argued, more generally and less successfully, that Muslim states should be included in international life.⁷⁰³

Montagu actively adopted Naoroji's demand that the Secretary of State for India represent Indian interests based on India's equality with the imperial and Dominion governments. This was the result of both South Asian liberals' intellectual and political labor and the revolutionary-inspired fear of Indian separatism, but South Asian liberals had created ideas about Indian and Muslim civilizational history and parity that were available for use during the conjunctural moment surrounding the First World War.

Montagu applied these ideas, when dealing with Lloyd George and other members of the Cabinet, irritating his colleagues but securing concessions to Indian demands. Ameer Ali

⁷⁰¹ "Minutes of the Sixteenth Meeting of the British Empire Delegation," April 3, 1919, TNA, FO 374/22, 97.

⁷⁰² Ameer Ali, "Persia and the Conference," *English Review*, February (1919), 134-139; Ameer Ali, *The Rights of Persia, Being the Substance of a Paper Read at the Central Asian Society on 26th June, 1918* (London, 1919).

⁷⁰³ Ameer Ali, "Address by the Right Hon. Syed Ameer Ali on Islam in the League of Nations," *Transactions of the Grotius Society*, 5 (1919), 126-144; see, also, Antony Anghie, "Colonialism and the Birth of International Institutions: Sovereignty, Economy, and the Mandate System of the League of Nations," *New York University Journal of International Law and Politics*, 34 (2001), 550-551.

and the Aga Khan both saw a connection between the success of Indian constitutional reforms and the Turkish peace settlement, noting that the reforms required the support of the entire Indian population and writing, about Montagu, that “no statesman [was] more alive to the dangers of the situation than the Secretary of State for India.”⁷⁰⁴

The successes and failures related to particular issues matter less than the acceptance of India into international legal society and the general openness of Western diplomats, within limits, to South Asian’s arguments and diplomacy. Those limits were ultimately geographical. That is, the imperial nationalizing moment of 1917 that saw both the acceptance of racial discrimination in intra-imperial immigration and the recognition of India’s equality with the Dominions regarding imperial foreign affairs and her right to reciprocity in relations had been repeated in the international nationalizing moment in Paris.

Conclusion

South Asians’ nineteenth-century international legal thought and politics aimed mostly to cajole or criticize British governance. The institutionalization of international law proceeded up to the turn of the century as the result of European theorists work and of Great Power, intra-imperial politics. The transitional moment starting in the 1890s witnessed domestic, imperial, and international legal politics coalescing in ways that imbricated these notional spaces. Migration, especially the migration of South Asian

⁷⁰⁴ Ameer Ali and the Aga Khan, “The Turkish Peace Terms,” *The Times of London*, June 6, 1919, reprinted in Aziz (ed.), *Ameer Ali*, 411-413, at 412.

revolutionaries eroded the boundaries between these spaces and compelled the British to take steps to incorporate moderate South Asian liberal's demand into domestic, imperial and international governance. Consequently, South Asians represented the state of India in intra-imperial negotiations about the post-war settlement and at the Paris Peace conference in 1919.

Montagu wrote to Lord Chelmsford on January 18, 1919, only four days after the opening of the Paris Peace Conference:

we have gone—shall I say lightly—into a series of decisions which puts India so far as international affairs are concerned on a basis wholly inconsistent with the position of a subordinate country. Her status has soared far more rapidly than could have been accomplished by any of our reforms.⁷⁰⁵

His prescience became increasingly apparent. Article 1 of the final Covenant of the League allowed only “[a]ny fully self-governing State, Dominion or Colony” to petition for membership in the organization.⁷⁰⁶ The imperial and Indian constitutional reforms embodied in the Government of India Act of 1919 only “provided for gradual expansion towards complete self-government” and would only receive Royal assent to become law in December, six months after Ganga Singh and Montagu signed the treaty.⁷⁰⁷ India's League membership placed that state, theoretically, on equal international legal footing

⁷⁰⁵ E. S. Montagu to Lord Chelmsford, January 22, 1919; quote in, Algernon Rumbold, *Watershed in India, 1914-1922* (London, 1979), 125; Naomi B. Levine, *Politics, Religion, and Love: The Story of H. H. Asquith, Venetia Stanley, and Edwin Montagu, Based on the Life and Letters of Edwin Samuel Montagu* (New York, 1991), 494.

⁷⁰⁶ League of Nations, *The Covenant of the League of Nations* (Paris, 1920); see also, United Kingdom Treaty Series, [1919] UKTS 4 (Cmd. 153); agreed by the Allied and Associated Powers on April 28, 1919, signed as part I of the Treaty of Versailles on June 28, 1919, and entered into force on January 10, 1920.

⁷⁰⁷ Lord Meston, “The New Constitution of India,” *Journal of Comparative Legislation and International Law*, 5 (1923), 1-16, at 1.

with other League members, including Britain and the Dominions.⁷⁰⁸ Herein lay the origins of Indian “quasi-independence.”

⁷⁰⁸ Lanka Sundaram, “The International Status of India,” *Journal of the Royal Institute of International Affairs*, 9 (1930), 452-466; A. B. Keith, *Speeches and Documents on Indian Policy, 1750-1921* (London, 1922), v. 2.

Conclusion

South Asians used international legal discourse for the work of ideological disputation and to mount political challenges to the domination and subjugation that accompanied imperial rule. They instigated political and legal disputes in India and Britain, throughout the empire, and overseas, and gained promises and partial concessions to Indian opinions and demands that limited British options in imperial and international relations. In so doing, they compelled the British state to alter the ideology, the policies, and the practices of the state, in India and in its relations with other states both within and outside the empire. Britain's power, ultimately, meant that South Asians' argumentation and actions shaped the contours of global order after the First World War.

The traditional international-legal framework of treaties, treatises, and states provides little insight into South Asians' contributions to global order and law between roughly 1850 and 1920. The role of international political thought and law in the causes and consequences of the revolt of 1857, for example, were fairly well understood among legal theorists and colonial administrators. The international character of these events has been ignored by scholars, even though relations among both peoples and states were at the heart of imperial conflicts both among the EIC, South Asian rulers and rebels, and the British Parliament and later among the South Asians, the Government of India, the British government, and other governments within and outside of the empire. These issues have been ignored by scholars, also, during the period up to 1947, including the years of India's "quasi-independent membership in the League of Nations, when the state

was declared and recognized as an independent state but considered an anomalous international person that could “not be regarded as a sovereign state and a normal subject of international law.”⁷⁰⁹

The lacuna exists because of the perceived and purported normalcy of the nation-state as the fundamental category of international life, but the recent, renewed interest in empire has provided a useful reminder that, for most of human history, empires and related forms of sub- and trans-imperial inter-polity relations had been the predominant political structures.⁷¹⁰ Recent scholarship, in light of this development, has refocused attention on the imagined futures for imperial and international political life, imperial citizenship, for example, or international and transnational anti-colonialism.⁷¹¹ This dissertation focused on South Asians’ politico-legal argumentative practices, on how and why they articulated particular, context-dependent political claims, on the demands they

⁷⁰⁹ Lassa Oppenheim, *International Law: A Treatise*, volume I: Peace, edited by Hersch Lauterpacht (London, 1955), 209, fn. 4; See, also, T. T Poulse, “India as an Anomalous International Person (1919-1947),” *British Yearbook of International Law*, 44 (1970).

⁷¹⁰ Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton, 2010); Benton, *A Search for Sovereignty*; Darwin, *After Tamerlane*; Benton, *Law and Colonial Cultures*; Dominic Lieven, *Empire: The Russian Empire and Its Rivals* (New Haven, 2001); Benton and Ford, *Rage for Order*; Benton and Clulow, “Empires and Protection.”

⁷¹¹ Banerjee, *Becoming Imperial Citizens*; Gorman, *Imperial Citizenship*; Sinha, “The Strange Death of an Imperial Ideal;” Manu Goswami, “Imaginary Futures and Colonial Internationalisms,” *The American Historical Review*, 117 (2012), 1461-1485; Seema Sohi, *Echoes of Mutiny: Race, Surveillance, and Indian Anticolonialism in North America* (Oxford, 2014); Kris Manjapra, *Age of Entanglement: German and Indian Intellectuals across Empire* (Cambridge MA, 2014); Alavi, *Muslim Cosmopolitanism in the Age of Empire*; Maia Ramnath, *Haj to Utopia: How the Ghadar Movement Charted Global Radicalism and Attempted to Overthrow the British Empire* (Berkeley, 2011); Aydin, *The Politics of Anti-Westernism in Asia*; Manela, *The Wilsonian Moment*; Nile Green, “Shared Infrastructures, Informational Asymmetries: Persians and Indians in Japan, c.1890-1930,” *Journal of Global History*, 8 (2013), 414-435; Carolien Stolte and Harald Fischer-Tine, “Imagining Asia in India: Nationalism and Internationalism (ca. 1905-1940),” *Comparative Studies in Society and History*, 54 (2012), 65-92; Harald Fischer-Tine, “Indian Nationalism and the ‘World Forces’: Transnational and Diasporic Dimensions of the Indian Freedom Movement on the Eve of the First World War,” *Journal of Global History*, 2 (2007), 325-344; Prasenjit Duara, “The Discourse of Civilization and Pan-Asianism,” *Journal of World History*, 12 (2001), 99-130.

made, and on the responses to those demands.⁷¹² It did so by approaching empire in a way that emphasizes the global exchange of ideas and the active connections between colonizers and the colonized.⁷¹³ Elite, English-speaking South Asians acted as cultural translators or intermediaries.⁷¹⁴ They engaged in debates as public intellectuals, and they carved out spaces for themselves in the social and political communities that created public opinion, especially those who visited or lived in Britain.⁷¹⁵ They did so in an environment shaped by the political and economic exigencies consequent to both local and global events.

Lord Dalhousie, between 1848 and 1856, annexed more territory in India than all previous British territorial expropriations combined.⁷¹⁶ Many South Asians and some Britons identified these dispossessions as a cause of the revolt of 1857. The annexations were enacted, according to Dalhousie, in accordance with international law. British political theorists and imperial administrators attempted to define and create order among both states and peoples during the nineteenth and twentieth centuries.⁷¹⁷ They mattered because Britain dominated global politics for most of this time.⁷¹⁸ The concepts of

⁷¹² Koskenniemi, "Law, Teleology and International Relations;" Koskenniemi, "International Law and Hegemony.

⁷¹³ Benton, *A Search for Sovereignty*; Lorca, *Mestizo International Law*; Darwin, *After Tamerlane*.

⁷¹⁴ Benton, *Law and Colonial Cultures*.

⁷¹⁵ Collini, *Public Moralists*; Bayly, *Recovering Liberties*.

⁷¹⁶ Fisher (ed.), *The Politics of the British Annexation of India*.

⁷¹⁷ Pitts, *Boundaries of the International*; Benton and Ford, *Rage for Order*; Bell, *The Idea of Greater Britain*.

⁷¹⁸ Bell (ed.), *Victorian Visions of Global Order*.

civilization and progress underlay their efforts to achieve order, and their interest in order related to the process of systematizing the empire.⁷¹⁹

Intellectuals adapted natural-scientific practices of categorization to place different peoples along a hierarchical continuum. Civilizational inferiority, including the incapacity for reciprocity and the propensity for misrule, was instantiated in a “standard of civilization.”⁷²⁰ European global political and legal thought required the exclusion of “uncivilized” or “backward” peoples, including non-Christians and non-Europeans, generally, from the scope of international law.⁷²¹ Dalhousie, undoubtedly, was correct that international law allowed him to annex territories in cases of misrule, if he followed recognized international legal standards related to treaties. His annexations based on the “doctrine of lapse,” when a ruler had no heir, were much less obviously justifiable, and his creation of the doctrine provides one example of the British use of international legal innovations to achieve the goal of conquest.

British state practice interpreted international law in ways designed to exclude particular peoples from international life.⁷²² Imperial ideologies and practices were critical to the construction of liberalism, global order, and international law and

⁷¹⁹ Edney, *Mapping an Empire*; Gottschalk, *Religion, Science and Empire*; Benton and Ford, *Rage for Order*; Darwin, *The Empire Project*.

⁷²⁰ Gong, *The Standard of ‘Civilization’*; Bowden, *The Empire of Civilization*.

⁷²¹ Sylvest, “International Law in Nineteenth-Century Britain.”

⁷²² Stern, *The Company State*; Fisher, *Indirect Rule in India*; Bayly, *Imperial Meridian*; Wilson, *The Domination of Strangers*.

institutions.⁷²³ Theorists and practitioners justified an iterative relationship between theory and practice in which theorists who said that South Asian territories could be annexed based on Britain's global mission on behalf of the civilized world were proved correct by the practice of annexation.⁷²⁴ International law, in the early nineteenth century, according to Lauren Benton, became the preferred way to explain the "legal logic of conquest," which also justified the expropriation of resources, the imposition of British governance, and violence against putatively uncivilized states and peoples.⁷²⁵ The result, for men like Henry Rawlinson, was the complete absorption of India and her resources into the British empire, at the top of which sat the Queen and Parliament to command Britain's international relations and legal engagements with other sovereign states.

The territorial annexations that preceded the revolt of 1857, the trial and exile of the last Mughal emperor, Muhammad Bahadur Shah Zafar, and the elimination of East India Company rule were conceived and justified in the language of international law. South Asians' knowledge regarding Anglo-Ottoman relations expanded because of the Crimean War and when South Asian Muslim exiles fled to Ottoman lands following the revolt. The Crimean War and the American Civil War resulted in economic growth in

⁷²³ Mehta, *Liberalism and Empire*; Pitts, *A Turn to Empire*; Koskenniemi, *The Gentle Civilizer of Nations*; Anghie, *Imperialism, Sovereignty and the Making of International Law*; Keene, *Beyond the Anarchical Society*; Kayaoglu, *Legal Imperialism*; Manela, *The Wilsonian Moment*; Pedersen, *The Guardians*.

⁷²⁴ Fitzmaurice, *Sovereignty, Property and Empire*; Pagden, *Lords of All the World*; Nabulsi, *Traditions of War*.

⁷²⁵ Benton, "The Legal Logic of Wars of Conquest."

India. The use of Indian monies for British imperial and frontier wars depleted the government's ability to confront local crises, such as famine.

Dadabhai Naoroji self-consciously occupied the role of cultural translator during the years he lived in Britain between 1855 and 1907. He continued a long-standing practice of South Asians migrating to Britain, and his presence altered the ideological debates about British domination of South Asian peoples because he participated actively in social life and freely expressed critical political opinions about British character and governance.⁷²⁶ The East India Association provided a congenial home for South Asians and sympathetic Britons to discuss the government's policy related to India and to attempt to influence both policy and public opinion. His arguments about the foreign-ness of British rule shifted the register of debates about British rule in India from the domestic sphere into international-legal relational space.

His comparative sociological examinations of the Parsis placed that community into the same category of historically civilized peoples as Christians, offering a counter argument, rooted in the ideology of the British civilizing mission, to Henry Maine's historical, cultural-evolutionary arguments about the development of different peoples. His broader engagement with the civilizational and scientific-racist commentary of James Crawford provided an early example of engagement with what would become the Asiatic problem. Naoroji's international legal analyses extended his sociological work to argue that the civilized peoples of Asia, such as the Parsis, were due the international legal

⁷²⁶ Fisher, *Counterflows to Colonialism*; Visram, *Asians in Britain*; Wainwright, 'The Better Class' of Indians; Lahiri, *Indians in Britain*; Banerjee, *Becoming Imperial Citizens*.

rights that had been extended, historically, to the peoples of South Asia. He envisioned the representative state of India existing in an imperial commonwealth as an equal part of the British empire.

Sayyid Ahmad Khan, Syed Ameer Ali, and Maulvi Chiragh Ali produced analyses focused on the community of South Asian Muslims and the needs of that community after the dispossession of the last Mughal king. Ahmad Khan believed in the developmental promises and potential of British rule while seeking space for the participation of South Asians in governance. His explications of Muslim history emphasized the foreign nature of British rule to explain the relationship between local or indigenous knowledge and good government. His Quranic exegesis distinguished and reconciled the historical commands for religious practice and the possibilities of modern scientific knowledge.

Ahmad Khan's historicism laid a foundation for the work of Ameer Ali and Chiragh Ali, both of whom used revisionist historical analysis to narrate Islamic and Islamicate history as a civilizing, international legal narrative. Both men countered negative portrayals of Islam and the Prophet, common in Christian-Muslim religious disputation, by emphasizing the imperial-expansionary, civilizing mission of Islam and the national sensibility of the early Muslim community. They described this community as a commonwealth with civil and political rights engaging in international relations with non-Muslim communities with respect for reciprocity and fidelity to agreements. Their commentary aimed to re-create South Asian Muslims as partners in the empire and

members of the international family of nations, and, explicitly in Chiragh Ali's case, to argue that the Ottoman empire should be regarded in the same way.

South Asians' international, legal-political achievements fell short of the expansive, rights-driven rhetorical imaginaries constructed by all four men. South Asian migration globalized colonial disputes.⁷²⁷ It altered the global legal context because South Asians carried with them the civilizational difference upon which colonial rule was predicated.⁷²⁸ It converted domestic debates and disputes into intra-imperial and international questions arising from the conflict of political theories and of laws.⁷²⁹ South Asians' experience in southern Africa, rooted in the indentured labor system, and in the other white, settler colonies revolved around ideas about nationality, national character, race, and imperial citizenship.⁷³⁰ South Asians called on the local, imperial, and Indian governments to support their rights as British subject-citizens in the face of discriminatory legislation.

English-speaking, and writing, traders in the South African Republic petitioned governments using arguments based on international law. Their rights claims, described in explicit international legal language, conjured the civilized Indian polity, imagined by Naoroji, of subject-citizens within an imperial commonwealth and represented by the

⁷²⁷ Metcalf, *Imperial Connections*; Amrith, *Migration and Diaspora in Modern Asia*; McKeown, *Melancholy Order*.

⁷²⁸ Lake and Reynolds, *Drawing the Global Colour Line*.

⁷²⁹ Pachai, *The International Aspects of the South African Indian Question*; Johnston, *The Voyage of the Komagata Maru*; Gould, *Sikhs, Swamis, Students, and Spies*; Popplewell, *Intelligence and Imperial Defence*.

⁷³⁰ Tinker, *A New System of Slavery*; Banerjee, *Becoming Imperial Citizens*; Gorman, *Imperial Citizenship*.

Indian state. The Imperial Conference of 1917 conferred recognition of India's separate statehood within the empire, but the imperial government refused to enforce long-standing policies regarding non-discrimination in the interest of imperial unity among the white Dominions, which allowed racial bigotry to be written into imperial constitutional law. Separate states and unequal peoples became the law of empire.

This pattern was re-created in Indian constitutional and international law following the First World War. The Indian reforms promised only eventual self-government, unlike the Dominions' responsible government, even though imperial constitutional law regarded India and the Dominions as separate and equal states within the empire. The reformed constitutional system of dyarchy devolved power to the provincial governments but divided responsibilities between appointed British governors, who retained autocratic control over law and policing, and a council of elected South Asian legislators. The system also reserved foreign affairs' responsibilities for the central, British-run government.

Edwin Montagu accepted South Asian liberals' demand that the Government of India represent Indian interests. Sixty years after the revolt, in 1917, Satyendra Prasanno Sinha became the assistant to Edwin Samuel Montagu, the Secretary of State for India. He and the Maharaja Ganga Singh served with Montagu on the Imperial War Cabinet in 1917 and at the Imperial Conferences in 1917, when Sinha negotiated the resolution that recognized India's right to a voice in imperial foreign policy and relations, and in 1918. Sixty years after the transition to direct British rule, in 1918, Sinha assisted Montagu to

prepare for the Parliamentary debates about Indian constitutional reform and the post-war peace conference. He became Lord Sinha, the first South Asian in the House of Lords, in February 1919, and was named Parliamentary Under-Secretary for India, a ministerial position formerly held by Montagu (1910-1914).

South Asians negotiated as diplomats representing India at the Paris Peace Conference. Ganga Singh and Montagu signed the Treaty of Versailles in Paris on June 28, 1919, on behalf of the state of India. He and Sinha, acting as South Asian diplomats, had negotiated for India in Paris. They had debated and decided, with their diplomatic counterparts from 26 other countries, the details of both the postwar settlement and the creation of a new, international organization designed to keep the peace and to encourage international engagement and cooperation. Colonial India's founding membership in the League conveyed international legal recognition. The state of India became a founding member of the League of Nations and the International Labor organization and obtained international legal recognition. Nevertheless, dyarchy characterized the eventual structure of the League. The imperial nationalizing moment that introduced racial prejudice into imperial constitutional law reappeared in global form in Paris.

The League was granted no power to intervene in the internal affairs of member states, so the legislated racial inequality that answered the Indian question in the Dominions and the international, Asiatic question was left unchallenged. Ameer Ali had continued his advocacy for the Ottoman empire and the global Muslim community in the wake of the war, and Montagu had been a vocal proponent for listening to South Asian

Muslims' concerns, but the Ottoman empire was, nonetheless, partitioned into spheres of Great-Power influence. Persia became a founding member, but Muslim states were obviously under-represented. European powers were the only permanent members of the League Council, an executive body directing the work of the Assembly, and the mandatory powers were almost all white, European states, except for Japanese trusteeship over former German island-colonies in the Pacific Ocean.

International India in the Inter-War Years: An Epilogue

The difference between India's international legal statehood and its imperial subjugation shaped the ideological arguments and the institutional practices associated with empire and international law and relations up to the creation of the United Nations in 1945 and South Asian independence in 1947.⁷³¹ Europeans could no longer claim a moral or developmental high ground following the industrialized slaughter of the First World War, which upended what had appeared to be settled definitions of civilization and savagery.⁷³² In 1919, formal diplomacy in Paris aimed to restore, secure, and maintain peaceful order. The putative promise of self-determination for all peoples as the basis for lasting peace seemed to recognize the existence of the global nationalizing moment and raised hopes for domestic autonomy among colonial populations.⁷³³

South Asians, excepting the revolutionaries demanding complete and immediate independence, initially viewed the League with a sense of great hope and possibility.⁷³⁴ B.G. Tilak, for example, believed that India could be a "powerful steward of the League

⁷³¹ "International Status of India," *Simon Commission Report, Part II, Volume V*; Keith, *The Sovereignty of the British Dominions*; Hall, *A Treatise on International Law*; Oppenheim, *International Law*; see, also, Poulse, "India as an Anomalous International Person."

⁷³² Lala Lajpat Rai, "India—An International Problem," In Lajpat Rai, *The Call to Young India* (Madras, 1920), 119-125; Michael Adas, "Contested Hegemony: The Great War and the Afro-Asian Assault on the Civilizing Mission Ideology," *Journal of World History*, 15 (2004), 31-63.

⁷³³ See, Manela, *The Wilsonian Moment*.

⁷³⁴ Lala Lajpat Rai, *The Political Future of India* (New York, 1919), 30-35; T. A. Keenleyside, "The Indian Nationalist Movement and the League of Nations: Prologue to the United Nations," *India Quarterly*, 39 (1983), 281-298.

of Nations in the East.”⁷³⁵ The failure, in Paris and in colonial capitals, to deliver on the promise of local political autonomy led to unrest in Egypt, China, Korea, and India. Concomitant disillusionment led Tilak, before his death in August 1920, and other immediate-autonomy advocates to turn away from the League.⁷³⁶

The Government of India had responded to local disaffection with the Rowlatt Act, formally the Anarchical and Revolutionary Crimes Act, which was drafted by the Indian police based on documents compiled by James Campbell Ker, a member of the Indian Civil Service and the assistant to the Director of Criminal Intelligence.⁷³⁷ Edwin Montagu reluctantly approved the Act, which became law on March 10, 1919, and allowed the government to restrict press freedom and to conduct warrantless arrests, detentions without trials, and secret trials without juries.⁷³⁸ Widespread protests followed, and the Indian army opened fire on a crowd of unarmed demonstrators at Jallianwala Bagh in Amritsar on April 13, 1919. The legal repression and military massacre occurred while Indian troops remained overseas after fighting in east Africa, in the Middle East and Persia, and in Europe, while Sinha and Ganga Singh negotiated the peace in Paris, and while the Indian government finalized the details of constitutional reforms promising

⁷³⁵ C. F. Andrews and Girija Mookerjee, *The Rise and Growth of the Congress in India* (London, 1938), 271.

⁷³⁶ Lajpat Rai, “The Dawn of a New Era,” *The Call to Young India*, 126-144; Jawaharlal Nehru, “The New Map of Europe,” In Nehru, *Glimpses of World History*, volume II (Allahabad, 1934), 1057-1069.

⁷³⁷ Ker, *Political Trouble in India*; Popplewell, *Intelligence and Imperial Defence*.

⁷³⁸ See the recommendations in, “East India (Sedition Committee, 1918). Report of Committee Appointed to Investigate Revolutionary Conspiracies in India, with Two Resolutions by the Government,” October 1918, Cd. 9190.

eventual self-government. Repression, in this context, strengthened the belief that the reforms were hollow and that the League represented the internationalization of imperial oppression rather than any sort of “new” world order.

The ideal of self-determination had raised hopes in Turkey, too. A petition by one group of Turkish religious leaders, businessmen, educators, politicians, newspapers, and civic organizations appealed to the Indian Muslim community to intervene with the British government to secure independent Turkish membership in the League.⁷³⁹ The petitioners recognized India’s League membership and called on Indian Muslims as citizens of the British empire to advocate for Turkish legal personality. This pan-Islamic appeal to preserve the caliphate in the name of the Muslim nation served instrumental, statist goals. It was an example of inter-imperial rather than anti-imperial politics. British and French efforts to annex Ottoman imperial territory, especially Constantinople, ultimately instigated new fighting, what would later be called the Turkish war of independence (1919-1922), which only ended in 1923 with the establishment of the Republic of Turkey and the Treaty of Lausanne.

The British government recognized the interconnected nature of domestic, imperial, and international disaffections. The Inter-Departmental Committee on Eastern Unrest, between 1922 and 1927, brought together representatives of the India Office, the Colonial Office, the Foreign Office, and the War Office to develop strategies to counter the ideologies, the individuals, and the organizations that, according to the British

⁷³⁹ “Appeal for Admission by Turkish People,” July 12, 1919, League of Nations Archive (LNA), Geneva, Registry Files (R), 1447/276.

government, were fomenting revolutionary disorder.⁷⁴⁰ The Committee identified “intense nationalism” as the “fundamental cause” of emancipatory movements that aimed to eliminate “any form of control by Europeans.”⁷⁴¹ Varied nationalisms in the space from north Africa through South Asia intersected with five “external agencies” that affected intra-imperial separatism: pan-Islamism, bolshevism, Indian revolutionary thought and practice, the League of Oppressed Nations, and the geopolitical machinations of rival European powers.⁷⁴²

Fear on the part of the governments of Britain and India, especially regarding revolutionary anti-colonialism and transnational or non-state sources of legitimacy and authority, created a recurring pattern that coupled political concessions and repression, which endured until 1947.⁷⁴³ These governments, during the interwar period, sought to counteract the international relations of multiple nationalisms. Politicians and administrators misinterpreted the goals of the Khilafat movement (1919-1924) opposing the dismemberment of Turkey, the non-cooperation movement (1920-1922) decrying

⁷⁴⁰ See, on the Committee, Durba Ghosh, “Terrorism in Bengal: Political Violence in the Interwar Years,” In Durba Ghosh and Dane Kennedy (eds.), *Decentering Empire: Britain, India and the Transcolonial World* (Delhi, 2006), 270-292; Suchetana Chattopadhyay, “The Bolshevik Menace: Colonial Surveillance and the Origins of Socialist Politics in Calcutta,” *South Asia Research*, 26 (2006), 165-179; Keith Neilson, *Britain, Soviet Russia and the Collapse of the Versailles Order, 1919-1939* (Cambridge, 2006), 52-53; John Fisher, “British Responses to Mahdist and Other Unrest in North and West Africa, 1919-1930,” *Australian Journal of Politics and History*, 52 (2006), 347-361.

⁷⁴¹ “Report of the Inter-Departmental Committee on Eastern Unrest,” December 19, 1922, TNA, CO 537/835, 2; see, also, “Indian and Egyptian Conspirators,” July 1919, TNA CAB 24/83/56;

⁷⁴² See, also, John Gallagher, “Nationalisms and the Crisi of Empire, 1919-1922,” *Modern Asian Studies*, 15 (1981), 355-368.

⁷⁴³ See, Durba Ghosh, *Gentlemanly Terrorists: Political Violence and the Colonial State in India, 1919-1947* (Cambridge, 2017).

governmental repression in India, and the Hindu-Muslim cooperation in India that accompanied both, seeing all three as separatist threats equal to revolutionary activities.⁷⁴⁴ This occurred even though self-government within the empire remained the stated goal of both South Asian moderates and the nationalists demanding immediate autonomy up to 1929, when the Indian National Congress demanded independence. Moderates were willing to work through the existing British-Indian government to exercise India's membership in the League and the ILO, while the autonomists believed that self-government was necessary, if Indian interests were to be represented in Geneva.

Revolutionary anti-colonialism has received renewed scholarly attention recently.⁷⁴⁵ Scholars have revived also the study of the international, civilizational, and regional histories of South Asian anti-colonialism.⁷⁴⁶ The diplomatic work of the moderates who participated in India's work at the League and the ILO has received little consideration, even though they understood the difficulties surrounding India's position.

V. Shiva Ram and Brij Mohan Sharma wrote,

⁷⁴⁴ See, P.C. Bamford, *Histories of the Non-Co-operation and Khilafat Movements* (Delhi, 1925); Bamford was the Deputy Director of the Intelligence Bureau in the Home Department of the Government of India; see, also, Minault, *The Khilafat Movement*.

⁷⁴⁵ See, e.g., Ghosh, *Gentlemanly Terrorists*; Ramnath, *Haj to Utopia*; Sohi, *Echoes of Mutiny*; Popplewell, *Intelligence and Imperial Defence*; Sareen, *Indian Revolutionary Movement Abroad*.

⁷⁴⁶ See, e.g., Ali Raza, Franziska Roy, and Benjamin Zachariah (eds.), *The Internationalist Moment: South Asia, Worlds, and World Views, 1917-39* (New Delhi, 2015); Alavi, *Muslim Cosmopolitanism in the Age of Empire*; Aydin, *The Politics of Anti-Westernism in Asia*; Manjapra, *Age of Entanglement*; Manela, *The Wilsonian Moment*; Bose, *A Hundred Horizons*; Cemil Aydin, "'The Muslim World' Question during the Interwar Era Global Imaginary, 1924-1945," *New Global Studies*, 10 (2017), 1-13; Goswami, "Imaginary Futures"; Stolte and Fischer-Tine, "Imagining Asia in India"; Fischer-Tine, "Indian Nationalism and the 'World Forces'"; Michele Louro, "Rethinking Nehru's Internationalism: The League Against Imperialism and Anti-Imperial Networks, 1927-1939," *Third Frame: Literature, Culture and Society*, 2 (2009), 79-94.

“[i]t is surely a curious phenomenon that a country should have the right to direct, conjointly with others, the common affairs of 54 countries, without the right to govern herself. Looked at from this point of view, India is a political curiosity inside the League.”⁷⁴⁷

Moderate, imperial internationalists supported the League’s work, and many of independent India’s and Pakistan’s most respected diplomats served first on Indian delegations at the League and at the ILO.⁷⁴⁸

Debates about the purpose, the goals, and the international legal character of the League continued through the interwar years. Hersch Lauterpacht described the League of Nations as “an attempt at some kind of international government,” undertaken by “the overwhelming majority of states,” but allowed, in 1925, that the character of the League remained indeterminate, “possibly supranational, or, perhaps, international.”⁷⁴⁹ Harold Laski called the League “juristically a super-state.”⁷⁵⁰ Jehangir C. Coyajee (1875-1943), a member of India’s Council of State, the upper chamber of India’s Imperial Legislative Council after 1919, and a member of India’s League delegations in 1931 and 1932, opined that the League was more than machinery for coordinating inter-relations among states but nothing like a world polity. Its value lay in the cooperative, sociable spirit it

⁷⁴⁷ V. Shiva Ram and Brij Mohan Sharma, *India & the League of Nations* (Lucknow, 1932), 139.

⁷⁴⁸ Vineet Thakur, “Liberal, Liminal and Lost: India’s First Diplomats and the Narrative of Foreign Policy,” *Journal of Imperial and Commonwealth History*, 45 (2017), 232-258; Patricia Clavin, *Securing the World Economy: The Reinvention of the League of Nations, 1920-1946*, (Oxford, 2013); Dennis Kux, *The United States and Pakistan, 1947-2000: Disenchanted Allies* (Oxford, 2001).

⁷⁴⁹ Lauterpacht, “Westlake and Present Day International Law,” 307; on Lauterpacht, see, Koskenniemi, *The Gentle Civilizer of Nations*, 353-412.

⁷⁵⁰ Harold Laski, *A Grammar of Politics* (London, 1925), 580.

inculcated among states and peoples.⁷⁵¹ Other South Asians also emphasized that the organization's potential inhered in the opportunities it provided for "close personal and human contact."⁷⁵² Abdullah Yusuf Ali (1872-1953), a Gujarati Shi'a Muslim who graduated Cambridge before being called to the bar at Lincoln's Inn and joining the Indian Civil Service, had assessed India's work in the First Assembly of the League in 1920 and emphasized the value of voicing Indian interests on the international stage, even if the delegates had not been selected by an autonomous Indian government.⁷⁵³ The representation of Indian interests mattered more to Yusuf Ali than whether the Indian delegates were "representative."

The British-Indian government was supportive of India's membership and pushed for international autonomy when possible. E. S. Montagu continued pressing the imperial Cabinet to recognize India's foreign policy positions. He had, during the peace conference, argued that, "[w]hatever be the views of the British Government... I must claim that I am entitled to put forward the views of India...".⁷⁵⁴ He circumvented the Cabinet regarding the method of communication between the Government of India and League, directing the League to correspond with India directly, through the Secretary of

⁷⁵¹ J. C. Coyajee, *India and the League of Nations* (Madras, 1932), 7-11.

⁷⁵² D. P. Sarvadhikary, "The League of Nations and India," *Indian Review*, 31 (1930), 721-724, at 721; see, also, Fazl-i-Husain, "My Visit to the League of Nations," *Hindustan Review*, 51 (1928), 3; 23-331; Govind B. Pradhan, "India and the League," *Indian Review*, 38 (1937), 730-734.

⁷⁵³ A. Yusuf Ali, "India and the League of Nations," *Contemporary Review*, 119 (1921), 633-641; see, also, Valentine Chirol, "India in the League of Nations: What She Gains," *Journal of the East India Association*, new series, 12 (1921), 176-200.

⁷⁵⁴ E. S. Montagu to David Lloyd George, February 28, 1919, PA, LG/F/40/2/40; see, also, E. S. Montagu to David Lloyd George, January 20, 1920, PA, LG/F/40/3/2; E. S. Montagu to David Lloyd George, April 15, 1920, PA, LG/F/40/3/4.

State's office, rather than through the British Cabinet.⁷⁵⁵ Later, F. W. Duke, of the India Office, responded to a reprimand from the Cabinet for corresponding directly with Geneva, stating on October 20, 1920, "[i]n view of the fact that India herself is a Member of the League its position is analogous to that of the other overseas British members whose Governments communicate directly with the League Secretariat."⁷⁵⁶ The Dominion governments, in fact, corresponded with the League through the Cabinet Office, but the Cabinet eventually capitulated to India Office intransigence and allowed direct communication between India and Geneva.⁷⁵⁷ A frustrated Lloyd George finally responded that Montagu's attitude "struck me as being not so much that of a member of the British Cabinet, but of a successor on the thrown (*sic*) of Aurangzeb!"⁷⁵⁸

The India Office conceded that India was more limited in its possible actions than the Dominions, but it supported South Asians' efforts both to participate in international affairs and to represent Indian interests, even when this created intra-imperial strife.⁷⁵⁹ The Indian delegation, albeit unsuccessfully, nominated and advocated for Syed Ameer Ali's election as a judge on the Permanent Court of International Justice, convincing the British and Dominion governments to support his candidacy as "an admirable

⁷⁵⁵ "Method of Communication with Government of India," July 5, 1919, LNA, R 1455/138.

⁷⁵⁶ Quote in Stephen Legg, "An International Anomaly? Sovereignty, the League of Nations and India's Princely Geographies," *Journal of Historical Geography*, 43 (2014), 96-110, at 100.

⁷⁵⁷ "Method of Communication with the British Dominions," October 11, 1919, LNA, R 1457/1428; "International Status of India," *Simon Commission Report, Part II, Volume V*, 1647.

⁷⁵⁸ David Lloyd George to E.S. Montagu, April 25, 1920, PA, LG/F/40/3/5.

⁷⁵⁹ "International Status of India," *Simon Commission Report, Part II, Volume V*, 1642; see, Daniel G.E. Hall and Jitendra Mohan Sen, *The League of Nations: A Manual for the Use of Teachers of Secondary Schools and Intermediate Colleges in India, Burma and Ceylon* (Calcutta, 1926).

representative not merely of India but of Muhammadan jurisprudence.”⁷⁶⁰ William Meyer and Louis Kershaw, of the India Office, successfully pushed India’s claim to recognition as one of the eight countries of Chief Industrial Importance and a seat on the Governing Council of the International Labor Organization in 1922.⁷⁶¹

Montagu and the Indian government also supported V. S. Srinivasa Sastri’s forceful criticism of South Africa’s domestic, discriminatory treatment of South Asians in 1921.⁷⁶² Sastri’s condemnation was followed in 1922 by the Maharaja of Nawanagar’s exhortation to the South African delegation to serve the interests of the empire and the League by ameliorating the condition of the Indian minority living in South Africa.⁷⁶³ South Africa’s pique led to the issue being raised at the Imperial Conference of 1923 and the imperial directive to forego discussing intra-imperial problems in international fora.⁷⁶⁴ However, India was named to the ILO’s Permanent Commission on Emigration,

⁷⁶⁰ *Report of the Delegates of India to the Second Session of the Assembly of the League of Nations* (Delhi, 1922), 4-5, at 5.

⁷⁶¹ Harold Butler (Deputy Director of the ILO) to Louis Kershaw, October 10, 1921, International Labor Organization Archive (ILO), Relations with India (XR), 33/1/6; Harold Butler to Louis Kershaw, April 24, 1922, ILO, XR 33/1/6; Lanka Sundaram, “India and the International Labour Organisation,” In Freda M. Houston and B.D.L. Bed (eds.), *India Analysed, Volume I, International* (London, 1933), 67-90, at 72-74; P.P. Pillai, *India and the International Labour Organisation* (Patna, 1931), 87-91.

⁷⁶² League of Nations, *Records of the Second Assembly, Plenary Meetings* (Geneva, 1921), 216; “Appendix IV. Annex 1.—Speech Delivered by the Right Hon. V. S. Srinivasa Sastri, on the 12th September, in the Debate on the Work of the Council,” *Report of the Delegates of India to the Second Session*, 130-133.

⁷⁶³ League of Nations, *Records of the Third Assembly, Plenary Meetings, Text of the Debates*, volume I (Geneva, 1922), 175-178.

⁷⁶⁴ “Imperial Conference, 1923. Political Status of Indians in the Colonies,” October 25, 1923, TNA, CO 323/911.

which provided another forum for the more circumscribed discussion of discrimination against South Asian migrant laborers and international reciprocity.⁷⁶⁵

The work of India in Geneva was aided by the High Commissioner for India, a post created by the India Act of 1919 to represent the Government of India in London, especially regarding economic policy.⁷⁶⁶ William Meyer (1860-1922), an Indian Civil Servant and the principal delegate for India during the first two sessions of the League, held the post from 1920 until his death, at which time he was replaced by his deputy, J.W. Bhore (1878-1960), also an Indian Civil servant and the former *diwan*, or prime minister, of the Indian princely state of Cochin. Bhore held the post temporarily until the appointment of the first permanent South Asian High Commissioner, Dadiba M. Dalal (1870-1941), a Parsi diplomat and a former member of the Council of India, whose appointment was greeted by “The Spectator” as “fresh proof of the British Government's wish to conciliate Indian opinion” and “that the process of “Indianizing” the Services in India [was] no empty phrase.”⁷⁶⁷

Atul Chandra Chatterjee (1874-1955), an Indian Civil servant, succeeded Dalal in 1925 and held the position until 1931. Chatterjee developed an exceptionally close relationship with both the League and the ILO. He represented India at the International Labor Conference in Washington in 1919 and in Geneva in 1921 and from 1924 to 1933,

⁷⁶⁵ L. Varlez to A.K. Sarkar, November 9, 1920, ILO, Emigration (E) 101/2/33.

⁷⁶⁶ See, Malcolm C.C. Seton, *The India Office* (London, 1925), 257-264.

⁷⁶⁷ Evelyn Finch, “The English-Speaking World,” *The Spectator* (April 7, 1923), 10.

and he served on the ILO's Governing Board from 1926 to 1933, as president in 1927. His brother, Amulya Chandra Chatterjee (1879-1935), worked for the Information and Political Sections of the League from July 1929 until his death in an automobile accident in February 1935.⁷⁶⁸ Atul Chatterjee took an active role in recommending South Asians both for employment in the League Secretariat and to participate in the League's "temporary collaborator" program, which allowed individuals to visit Geneva during an Assembly session to learn about the League's work and to meet session participants.

He recommended J.J. Dalal (b. 1898) for a regular position in the League Secretariat in 1926.⁷⁶⁹ Dalal had studied at Harrow and Oxford, served as an artilleryman in the First World War, and worked for Chatterjee in the High Commissioner's Office. He resigned in 1940, after a difficult career in the Legal and Minorities Sections to re-enlist in the army. Chatterjee also arranged, for example, for J.M. Sen, who had already published a book on the League, to attend the 1932 League session as a temporary member of the information section.⁷⁷⁰ The Indian legislature consistently monitored the number of Indian employees of the League and the ILO, especially because India paid among the highest annual contributions to the League.⁷⁷¹ V. Shiva Ram and Brij Mohan Sharma, both of whom were professors at Indian colleges and who wrote *India & the*

⁷⁶⁸ "Amulya Chandra Chatterjee," LoN, Section Files (S), Personnel, S 741/717.

⁷⁶⁹ "J.J. Dalal," LoN, Personnel, S 751/887.

⁷⁷⁰ "J.M. Sen," LoN, Personnel, S 880/3224; see, Hall and Sen, *The League of Nations: A Manual*.

⁷⁷¹ Louis Kershaw to Eric Drummond (Secretary-General, League of Nations, February 11, 1925; Louis Kershaw to J.A Salter (Director, Economics and Finance, League of Nations), March 2, 1925, "P.P. Pillai," LoN, Personnel, S 855/2841.

League of Nations (1932), also worked in Geneva.⁷⁷² Sharma acted as an Indian correspondent, a public educator or diplomatist, for the League from Lucknow, attached to the League's main Indian office in Delhi, between 1933 and 1946. Ram, who had earned a Ph.D. at Harvard before conducting international law research at Cambridge, served in the Political Section for one year in 1936 and 1937.

P.P. Pillai, who had earned his Ph.D. in economics at the London School of Economics, worked in the Economic and Financial Section of the League between January 1925 and October 1927, when he moved to the International Labor Organization to open its office in India in 1928.⁷⁷³ Pillai submitted detailed monthly reports on labor, social, and economic issues in India to ILO headquarters in Geneva.⁷⁷⁴ The ILO provided a more congenial home than the League for South Asians.⁷⁷⁵ One of the chief complaints directed at the League was that it focused overwhelmingly on European concerns.⁷⁷⁶ Indian politicians complained that delegates were appointed by the government and that India's financial assessment was too high given the League's focus on Europe and the small number of South Asians serving in the Secretariat.

⁷⁷² "V.S. Ram," LoN, Personnel, S 862/2969; "B.M. Sharma," LoN, Personnel, S 880/3239.

⁷⁷³ "P.P. Pillai," LoN, Personnel, S 855/2841.

⁷⁷⁴ These reports have been digitized by Professor Ravi Ahuja of the University of Gottingen and can be viewed online at <https://www.uni-goettingen.de/en/ilo+india+monthly+reports+%281929-1969%29+now+online/324221.html>.

⁷⁷⁵ Pillai, *India and the International Labour Organisation*; see, J. Krishnamurty, "Indian Officials in the ILO, 1919-c 1947," *Economic and Political Weekly*, 46 (2011), 53-61; Gerry Rodgers, "India, the ILO and the Quest for Social Justice since 1919," *Economic and Political Weekly*, 46 (2011), 45-52.

⁷⁷⁶ Arthur Salter, "Mission to India (Jan 9th - Feb. 15th, 1931), Collaboration of India and the League," LoN, Acting Secretary-General's Files, S 555/1, 4-6.

The constitutional structure of the two organizations differed in crucial ways. The political considerations of the permanent members of the League Council ultimately controlled the direction of the organization, and India had been denied a Council seat. The ILO had been designed to incorporate non-European perspectives on international labor issues, and decisions were taken using a tripartite structure in which each member state was represented by three delegates, one representing each of three constituencies, government, employers, and workers. This allowed workers' representatives—like, for example, Narayan Malhar Joshi (1879-1955), a founder, with Lala Lajpat Rai, of the All India Trade Union Congress in 1921, founder of the All India Trade Union Federation in 1931, and India's labor delegate to the ILO in 1919 and five more times between 1920 and 1930—to criticize and to vote against the Indian government.

Joshi's repeated efforts led the ILO to allocate money for the creation of the ILO's Indian office led by Pillai.⁷⁷⁷ Joshi regularly decried the exceptions to labor laws requested by the Government of India on the basis of climate or underdevelopment and argued that Indian workers' rights should equal the rights of European workers.⁷⁷⁸ Joshi also pushed the ILO to convene an Asiatic Labor Conference among India, Japan, and China.⁷⁷⁹ He convinced Atul Chandra Chatterjee that the conference could advance labor

⁷⁷⁷ ILO, *Minutes of the 33rd Session of the Governing Body, Geneva—October 1926* (Geneva, 1926), 107; ILO, *Minutes of the 35th Session of the Governing Body, Geneva—March 1927* (Geneva, 1927), 50.

⁷⁷⁸ See, for a discussion of the youngest age for factory workers, *International Labour Conference*, Third Session, volume I.—First and Second Parts (Geneva, 1921), 253-254.

⁷⁷⁹ Joshi to Harold Butler (Director of the ILO), September 25, 1929, "Proposed Conference of Asiatic Countries, 1929-1931," ILO, Butler—Cabinet Files (XD), 6/1/1.

rights and education. Chatterjee suggested expanding the participants to include the large Indian princely states and major colonies, including the Dutch East Indies, Ceylon, Indo-China, and Malaya, an idea supported by the Secretary of State for India, William Wedgwood Benn.⁷⁸⁰ Harold Butler accepted Pillai's recommendation against pursuing the conference at the time because of the uneasy political situation in India.⁷⁸¹ A split between radicals and moderates in the All India Trade Union Congress in 1931 stalled conference planning, as did Japanese imperial aggression in the mid-1930s.⁷⁸²

Vijay Prashad described the Third World as a political project, not a place, in *The Darker Nations: A People's History of the Third World*.⁷⁸³ Prashad explored the unifying effects of ideas about anti-colonialism, peace, and development among formerly colonized peoples and the attempts of Third World leaders to create the ideological and institutional basis for peaceful, global coexistence. The historical roots of the Third World stretched back to the 1927 Conference of the League Against Imperialism, attended by Nehru, among others. The Conference met in Brussels, a city transformed and made modern between 1865 and 1909 by wealth derived from Belgium's brutal, colonial system of slavery in the Congo. The choice of location for a meeting opposing imperialism, partly funded and organized by members of the Communist International

⁷⁸⁰ Atul Chandra Chatterjee to Harold Butler, December 18, 1929, ILO, XD 6/1/1; Harold Butler Note, November 19, 1929, ILO, XD 6/1/1.

⁷⁸¹ Harold Butler to P.P. Pillai, March 27, 1930, ILO, XD 6/1/1.

⁷⁸² See, Carolien Stolte, "Bringing Asia to the World: Indian Trade Unionism and the Long Road towards the Asiatic Labour Congress, 1919-1937, *Journal of Global History*, 7 (2012), 257-278.

⁷⁸³ Vijay Prashad, *The Darker Nations: A People's History of the Third World* (New York, 2007).

was no accident; neither was the inclusion of “League” in the new institution’s name, which was a direct criticism of the mandates system at the League of Nations. Prashad’s work, like much recent scholarship, adds depth and breadth to knowledge about the international and transnational aspects of anti-imperial thought and organization, but the interwar activities of the League of Nations and the ILO were important fora for South Asians, ones that warrant more study to fill lacunae regarding South Asians’ pre-independence diplomatic practice and their contributions to the development of international organizations and relations.

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